

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
FOR THE COUNTY OF YAVAPAI

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA
2011 FEB -8 PM 3:19
JEANNE HICKS, CLERK
Jacqueline Harshman

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DeMOCKER,

Defendant.

BY: _____

P1300CR

Case No. 2008-1339

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE WARREN R. DARROW
TRIAL DAY TWENTY-SEVEN
JULY 22, 2010
Prescott, Arizona
(Partial Transcript)
(Examination of Witnesses)

ORIGINAL

REPORTED BY
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I N D E X

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1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Thursday, July 22,
3 2010, at Yavapai County Superior Court, Division 6,
4 120 South Cortez, Prescott, Arizona, before Mina G.
5 Hunt, Certified Reporter within and for the State of
6 Arizona.

P R O C E E D I N G S

(Partial transcript -- examination of witnesses.)

THE COURT: The record will show the presence of the defendant, the attorneys for the defendant and the attorneys for the state. And the jurors have returned as well.

The first thing I want to do this morning, ladies and gentlemen, is introduce the court reporter who will be helping us today and other times with the trial. This is Mina Hunt. And she works with me regularly in court in Camp Verde.

The other thing I want to address here at the outset has to do with the question that was asked at the end of day yesterday. Mr. Sears had asked the question. Mr. Butner on behalf of the state objected.

That question, ladies and gentlemen, has been withdrawn. You are instructed -- you are instructed that you must disregard that question. And you must not speculate about what any answer might have been. The witness, Sergeant Huante, has resumed the stand.

Mr. Sears, you may continue with cross-examination.

1 MR. SEARS: Thank you, Your Honor.

2 CROSS-EXAMINATION (Continued)

3 BY MR. SEARS:

4 Q. Good morning, Sergeant.

5 A. Good morning.

6 Q. Let's go back, if we could, and talk some
7 about more about your efforts to find where
8 Mr. DeMocker said he had been riding his bike on the
9 night of July 2 when Carol Kennedy was killed.

10 And you told us yesterday that in addition
11 to having Jaramillo and Brown go out early on the
12 morning of July 3rd, you yourself went out on that
13 Sunday, which would have been July 6; right?

14 A. Right.

15 Q. You got back from being off for the Fourth
16 of July. And apparently you were curious about
17 whether you could find where Mr. DeMocker said he
18 was riding; is that right?

19 A. Sure. We had been conducting the search
20 in the Deep Well Ranch area. After we had finished
21 that, that's when I went.

22 Q. That was the line search that we talked
23 about where you started up in the area of the gate
24 and with a group of volunteers marched down and back
25 up looking for anything; correct?

1 A. Right.

2 Q. And that started pretty early on the
3 morning of Sunday, July 6; right?

4 A. Yes. About 6:00 a.m.

5 Q. Because it was going to be a hot day
6 again?

7 A. Yes.

8 Q. There was some interest, particularly if
9 you're using volunteers, to get started sooner
10 rather than later? So when you were done, you were
11 still out there and you thought you would take a
12 swing over to the Love Lane area and see what you
13 could see?

14 A. Yes.

15 Q. Did you have a bike with you?

16 A. No.

17 Q. Did you have a camera with you?

18 A. I may have.

19 Q. Did you have any maps with you?

20 A. No.

21 Q. Did you have any information from your
22 interview with Mr. DeMocker, any notes or
23 photographs of the map that he had drawn on the
24 white board? Did you have any materials like that
25 with you?

1 A. No.

2 Q. Just had your recollection of what he
3 said?

4 A. Yes.

5 Q. And was anyone with you?

6 A. No.

7 Q. How long did you spend, if you can
8 estimate, trying to find where Mr. DeMocker said
9 he'd started his ride?

10 A. 30 minutes.

11 Q. And you drove up from Williamson Valley.
12 You drove up Love Lane?

13 A. Yes, I did.

14 Q. Did you of ever go up into the Rainmaker
15 area?

16 A. Yes, I did.

17 Q. Yesterday you were looking at a
18 photograph. And it was just a photograph of a road,
19 and you couldn't identify what was depicted in that
20 photograph. Do you remember that?

21 A. Right.

22 Q. Is that the first time on July 6, 2008,
23 you'd ever been up on the high part of Rainmaker?

24 A. Yes.

25 Q. It's really nice up there. There is nice

1 view on a clear day from up there; right?

2 A. Yes.

3 Q. You can see all the way to the
4 San Francisco peaks and out even into the Verde
5 Valley some; correct?

6 A. I believe so.

7 Q. Mr. DeMocker had told you that he had
8 parked his car up there for a couple of reasons;
9 right?

10 A. I believe one of the reasons was he didn't
11 want to bother the neighbors or the neighborhood.
12 That's why he parked away and that he was familiar
13 with the area.

14 Q. And the first part of it, not wanting to
15 park his car, bother the neighbors, makes sense;
16 right?

17 A. I believe so.

18 Q. If you drive up on Love Lane or Rainmaker
19 or Levie or any of the roads that go from Williamson
20 Valley west up the hill towards Granite Mountain,
21 there are houses all in that area; right?

22 A. Yes.

23 Q. And the roads are paved, for the most
24 part?

25 A. Yes.

1 Q. And there are no parking places or any
2 place as you head up there where you wouldn't be
3 parking at least in front of somebody's house as you
4 drove up?

5 A. I'd agree.

6 Q. But when you get up to the top on
7 Rainmaker at the very top where you were where
8 Mr. DeMocker says he was, there are no houses up
9 there; right?

10 A. There is a lot of vacant lots.

11 Q. And that one stretch at the very top where
12 Rainmaker turns to the south and then curves down
13 onto Levie Lane, there were some "for sale" signs in
14 July of 2008?

15 A. I believe so. Yes.

16 Q. Mr. DeMocker had said that he and Carol
17 when they were together had owned a lot in that
18 general area; correct?

19 A. I believe he said "we." Yes.

20 Q. And you said that an investigation was
21 done that confirmed that; correct?

22 A. Right.

23 Q. So with regard to the reasons why
24 Mr. DeMocker was up there, he told you too that he
25 didn't want to park in front of somebody's house.

1 And you confirmed that that makes sense to you;
2 correct?

3 A. To some degree. Yes.

4 Q. And he knew the area and in part because
5 he owned a lot. And that turned out to be true;
6 correct?

7 A. True.

8 Q. Now, when you got up there, that part of
9 Rainmaker is paved or at least chip sealed; right?

10 A. Yes.

11 Q. And it has a sandy decomposed granite
12 shoulder on both sides; correct?

13 A. I'm not sure what it's made out of.

14 Q. Not paved?

15 A. Right.

16 Q. And then there is a place on that little
17 stretch of Rainmaker which is maybe a block long
18 where heading back down the hill there is a turn out
19 of some kind where you could pull down in that area
20 and turn around and go back the other way. Do you
21 remember that?

22 A. I'm not positive.

23 Q. Okay. Let me take another run at this
24 photograph we talked about yesterday. We'll come
25 back to it.

1 Did you go to Rainmaker first on July 6?

2 A. No. I went down to -- all the way to the
3 end of Love Lane where it turns into dirt. And I
4 believe as it turns kind of southwest up into that
5 area that was just dirt and it appeared that it had
6 been bladed by a grader.

7 Q. We talked about that yesterday?

8 A. Right.

9 Q. As you go up Love Lane, which more or less
10 runs westbound from Williamson Valley Road up
11 towards the mountain, at some point the payment ends
12 and turns into dirt?

13 A. Right.

14 Q. And that's actually just before that spur
15 driveway down to the Peterson house, which would be
16 off to your left to the south?

17 A. Correct.

18 Q. And then Love Lane itself snakes on up a
19 bit further up the hill?

20 A. Yes.

21 Q. And just dies?

22 A. Yes.

23 Q. So you went out to the end of that. You
24 went down what you now know to be that easement or
25 driveway for the Peterson house?

1 A. Once I was at the dead end of Love Lane up
2 on top of that graded area, I turned back and I kind
3 of retraced my steps, and I took that little
4 driveway.

5 Q. Coming back would be a right?

6 A. Yes.

7 Q. Would be a left as you were coming down?

8 A. Correct.

9 Q. Did you stop and talk to anyone?

10 A. Yes, I did.

11 Q. Who did you talk to?

12 A. I attempted to speak to the people at that
13 house. Nobody answered. I left my card. Then I
14 went and I spoke with -- there is a house that's
15 right on top adjacent -- right across the street
16 from the Petersons. I spoke to them. They were
17 just moving in that day. So they hadn't seen
18 anything. I gave them also my card.

19 Q. And their name was?

20 A. I don't remember, sir.

21 Q. Did you write it down?

22 A. I may have.

23 Q. Did you ask them where the trail was?

24 A. No. I did not.

25 Q. Apparently they live right next door to

1 the trail, as it turns out?

2 A. On the other side across the street.

3 Q. There is a good chance they would know
4 where the trail was?

5 A. It's possible.

6 Q. You didn't bother to ask them?

7 A. I asked them if they had seen BMW in the
8 area.

9 Q. Okay. Let me show you 2533. 2533. We
10 looked at this one yesterday a bit. You can see
11 here on 2533 the Peterson's house; right?

12 A. Yes.

13 Q. So here is Love Lane. And, in fact, you
14 can see on this, this is the paved part. And here
15 is the place where the pavement ends and it turns to
16 dirt; correct?

17 A. Right.

18 Q. And so Williamson Valley road is right
19 here; right?

20 A. Right.

21 Q. And it's, basically, an uphill slog as you
22 come around, and Love Lane kind of wanders around
23 here. Here is the driveway easement spur down to
24 the Peterson house; correct?

25 A. Right.

1 Q. And where you went and apparently where
2 Brown and Jaramillo went was further on out Love
3 Lane off this photograph and up somewhere up in
4 here. And it kind of turns right at the end of your
5 finger there. And that's where it ends. And you
6 back tracked?

7 A. Yes.

8 Q. Now, this picture was taken in about May
9 of 2007. And there is no house built yet directly
10 across the street. Is this where the house was,
11 this being the Peterson's house? Is this the house
12 you went and talk to the people?

13 A. I believe so. I thought it was on top of
14 a small hill or something that I had to actually
15 drive up the driveway.

16 Q. See if we can move this around. Okay.
17 This is Boone Court?

18 A. Correct.

19 Q. This is the supposed -- according to that
20 forest service map, this is the, quote, "trail head"
21 for Trail 309; right?

22 A. I'm not sure. I don't remember.

23 Q. It's just -- on the forest service map
24 it's just a big circle; right?

25 A. I believe so.

1 Q. Now, here's a house. And pretty large
2 houses here. Is there anything in this photograph
3 or from your recollection of being here that in any
4 way made you think you were at a trail head?

5 A. No.

6 Q. Is there any signage here that says trail
7 head or 309 or parking or free parking day on
8 Wednesdays or anything?

9 A. No.

10 Q. And this is a gravel sort of a driveway
11 road that goes down here; right?

12 A. Yes.

13 Q. And does that appear to be somebody's
14 driveway? a public street? What is it?

15 A. Just looks like some sort of easement.

16 Q. And it goes down along here and then it
17 turns and comes down right here. Here's the pump
18 house; right? Is that the roof of the pump house?

19 A. Yes.

20 Q. Now, you had been talking -- from out on
21 the ground this dark line here actually on the
22 ground appears to be the Peterson's fence line. And
23 at the trail you can see -- here's the trail
24 actually. It goes right along here. You can see a
25 piece of it here. And it comes into wash here. Is

1 that where the trail is that you were on?

2 A. Somewhere between the house and the pump
3 house.

4 Q. And so on the 19th of July your bike ride
5 started in here. Did you park your vehicle up in
6 here?

7 A. Yes, I did. I parked it right across
8 where you got the pointer.

9 Q. This way?

10 A. Right there where that tree is at.

11 Q. Right here?

12 A. Right there.

13 Q. Okay. That tree?

14 A. Yes.

15 Q. Okay. Thank you so much. And you had
16 your bike with that helmet cam, and you proceeded
17 down here, down around the corner and got under this
18 tree, the trail here. And you told us the rest of
19 where you went?

20 A. Yes.

21 Q. On the 6th you were driving your private
22 vehicle or patrol car?

23 A. An unmarked patrol car.

24 Q. And you came down. After you came back
25 here you turned and came down this unnamed spur.

1 And did you park -- obviously when you got out to
2 talk to the people in this house; right?

3 A. I parked my car somewhere up by the pump
4 house and walked to the house.

5 Q. To this house first?

6 A. Yes.

7 Q. Did you leave a card there?

8 A. Yes.

9 Q. Did you ever get a call from those people?

10 A. No.

11 Q. Where did you leave the card?

12 A. On the door handle.

13 Q. Front door?

14 A. The door frame. Kind of pinch it in the
15 door frame.

16 Q. And then you looked around. And was this
17 house here? Was that house there on July 6, 2008?

18 A. I don't know.

19 Q. But there was a house here. You didn't go
20 up to this house?

21 A. I'm not sure if that is a house or if
22 there is a new house there. But there is a house
23 that I had to drive up the driveway that was very
24 steep. They were just moving in.

25 Q. You went there and talked to those

1 people. Man? Woman? Child?

2 A. Man.

3 Q. Did you tell him who you were?

4 A. Yes. I gave him my card.

5 Q. You weren't in uniform?

6 A. No.

7 Q. And you don't remember his name?

8 A. I don't remember his name.

9 Q. You weren't taking any notes?

10 A. I may have.

11 Q. And what did you ask him?

12 A. If he had seen a BMW around the 4th,
13 between the 1st or the 4th, anywhere in the area.

14 Q. Anywhere in the area?

15 A. Right.

16 Q. What kind of BMW?

17 A. Just a four-door silver BMW.

18 Q. You were trying to see if they'd seen
19 Mr. DeMocker?

20 A. Right.

21 Q. Mr. DeMocker never told you that he drove
22 his 2007 four-door silver BMW anywhere down here in
23 the vicinity of the Peterson house? That's not
24 where he told you; right?

25 A. Right.

1 Q. He told you that he parked way up here on
2 Rainmaker and rode his bike through here; right?

3 A. Right.

4 Q. So did you ask this unnamed gentleman if
5 he'd seen anybody on a bicycle on the night of
6 July 2nd?

7 A. I don't remember if I did.

8 Q. Did you ask him if he was even home on the
9 evening of July 2nd?

10 A. Yeah. He told me he was just moving in.

11 Q. Was he home on July 2nd?

12 A. No. He just purchased the home. That was
13 the first day he was at the house.

14 Q. Oh. July 6.

15 A. He was moving in.

16 Q. Then it would have been unlikely that he
17 would have seen the BMW or anything else because he
18 wasn't there?

19 A. Correct.

20 Q. Okay. Now, at this point did you think
21 you were somewhere near a trail?

22 A. No.

23 Q. Okay. You had no idea?

24 A. No.

25 Q. You're standing perhaps 25 yards from the

1 trail?

2 A. Right.

3 Q. Actually, if the forest service map is
4 correct, you were probably standing on the trail,
5 this part of the trail?

6 A. To some degree. Yes.

7 Q. Okay. Maybe standing on the trail where
8 you're talking to the guy?

9 A. Possibly. Yes.

10 Q. And did you ask him if he knew whether
11 there was a trail anywhere around?

12 A. No. I did not ask.

13 Q. And nobody else? So that was the only
14 person you talked no?

15 A. No.

16 Q. Who else did you talk to?

17 A. I spoke to a lady. I believe there is a
18 house -- I believe that's a house right there.

19 Q. Okay. Maybe she has an address on Boone
20 Court?

21 A. That's possible.

22 Q. Okay. And how did you get there? Did you
23 drive up there?

24 A. Yes, I did.

25 Q. Okay. And that lady's name was?

1 A. I don't remember again.

2 Q. And that lady told you what?

3 A. I was just asking if she had seen the BMW
4 parked anywhere in the area. She told me no. She
5 doesn't really -- I remember she had a couple of
6 kids, and she was pretty preoccupied watching her
7 kids all the time.

8 Q. Okay. You asked two people in the area if
9 they saw a silver BMW when you knew that
10 Mr. DeMocker told you he wasn't anywhere near there
11 with his BMW; right?

12 A. According to him he told me he was up
13 there. I was trying to cover all the bases.
14 Somebody would most likely remember a BMW rather
15 than somebody riding a bicycle. That would be
16 pretty common.

17 Q. But if they said they saw Mr. DeMocker in
18 his silver BMW that night, then you would have
19 caught Mr. DeMocker in a lie; right?

20 A. That's true.

21 Q. That's really what you were trying to do;
22 right?

23 A. I was trying to cover all the bases.

24 Q. And see if you could catch Mr. DeMocker in
25 a lie?

1 A. True.

2 Q. Okay. But you said before, I think more
3 than once yesterday, that good police investigation
4 involves keeping an open mind. So Mr. DeMocker said
5 that he had been somewhere in this area riding a
6 bicycle; right?

7 A. True.

8 Q. Asking people in addition to the BMW
9 question whether they had seen Mr. DeMocker or
10 anybody on a bicycle would have been a way to try
11 and confirm what Mr. DeMocker was telling you;
12 right?

13 A. That's true. I also asked Mr. DeMocker if
14 anybody saw him, if he could tell me anybody in the
15 neighborhood might have seen him, and he couldn't
16 tell me that either.

17 Q. If somebody is in the Peterson or in this
18 unbuilt house, in this nice lady's house,
19 Mr. DeMocker wouldn't know necessarily if they saw
20 him or not, would he?

21 A. Don't know.

22 Q. But these people might have seen him and
23 he just wouldn't have known; right?

24 A. That's possible too.

25 Q. Mr. Peterson could have been standing

1 looking out his window and watched Mr. DeMocker ride
2 by; right?

3 A. That's possible.

4 Q. And Mr. DeMocker wouldn't necessarily know
5 that; correct?

6 A. Don't know.

7 Q. As you said yesterday, all things are
8 possible?

9 A. Correct.

10 Q. Now, did you talk to anybody else on
11 July 6?

12 A. No.

13 Q. You tried the Petersons. They weren't
14 home. You talked to a man in a house that is
15 somewhere in this general area here and you talked
16 to a lady with unruly kids in this house; right?

17 A. I take that back. I spoke to somebody
18 else at the end of Love Lane where you go down the
19 dirt path. I believe down here where the road turns
20 this way I spoke to the person at the corner house.

21 Q. Okay. There was actually a house down
22 there?

23 A. Yes.

24 Q. Okay. And that person's name was?

25 A. I don't remember.

1 Q. And that person told you what?

2 A. I was asking again if there was a BMW
3 parked in the area or if they had even a BMW in the
4 area.

5 Q. Now, these people, these people being the
6 Petersons, and the guy that just moved in and the
7 lady with the kids -- these people don't live on
8 Love Lane. They live off this spur that doesn't
9 have a separate name; right? She may live on Boone
10 Court? This lady; right?

11 A. That's possible. Yes.

12 Q. And the Petersons may or may not have an
13 address on Love Lane? It's not obvious; right?

14 A. Right.

15 Q. Okay. And this house, same deal. They
16 may or may not have an address on Love Lane?

17 A. Right.

18 Q. Now, the people up here -- that house is
19 right on Love Lane; right?

20 A. Right.

21 Q. Now, Mr. DeMocker told you that he rode on
22 a Love Lane trail?

23 A. Right.

24 Q. A trail off Love Lane. And you didn't
25 know where it was?

1 A. Correct.

2 Q. Wouldn't a reasonable question for the guy
3 that lives in the house on Love Lane be is there a
4 trail here that I'm not seeing?

5 A. I didn't ask.

6 Q. Mr. DeMocker told you that he was wearing
7 bike shoes on July 2nd when he rode his bike; right?

8 A. Yes.

9 Q. Okay. And you say you think he was
10 wearing was La Sportiva hiking type shoes; right?

11 A. Yes.

12 Q. Now, this is 2542 in evidence. This is
13 the bottom of one of the two pairs of Mr. DeMocker's
14 bike shoes. And we can see these SPD cleats that
15 are part of the pedal system on his bike; right?

16 A. Right.

17 Q. Here is another pair of bike shoes that
18 Mr. DeMocker had that you took a search warrant.

19 MR. BUTNER: What exhibit is that, Mr. Sears?

20 MR. SEARS: 2542. Here is 2537 in evidence.

21 Let's not use 2537. Let's use 2540 in evidence.

22 Q. This is the other pair of bike shoes that
23 Mr. DeMocker had. These were taken off the metal
24 shelving in the garage near the mysteriously
25 disappearing head cover; right?

1 A. I believe so.

2 Q. Remember those shoes?

3 A. Yes.

4 Q. Next to his helmet?

5 A. I believe so.

6 Q. Okay. And they have very similar cleats
7 on them, don't they?

8 A. Yes.

9 Q. Now, these shoes, both the first pair of
10 shoes and this pair of shoes have treads on them.
11 This has screw heads at the toe. This one has a
12 rock wedged in it apparently up here, and it has a
13 metal plate to which this cleat is attached; right?

14 A. Right.

15 Q. So you would assume that if you were
16 wearing those shoes and walking particularly in the
17 decomposed granite in the area of both Love Lane and
18 Bridle Path and all those other places, those might
19 leave a distinctive shoe print; right?

20 A. Yes.

21 Q. As far as you know, law enforcement never
22 found a single one of those shoe prints that looked
23 anything like that?

24 A. Right.

25 Q. Nothing that looked like a bike shoe?

1 A. Right.

2 Q. Okay. So that's part of the reason you
3 want to think Mr. DeMocker was wearing some other
4 footwear other than those shoes; right?

5 A. Right.

6 Q. Now, Mr. DeMocker said that when he came
7 down -- let's put 2533 back up again -- he was
8 riding his bike and that he started up on Rainmaker
9 and he came down -- Mr. DeMocker didn't describe to
10 you riding down Boone Court. He never said he went
11 that way, did he? He didn't use the word Boone
12 Court?

13 A. No, he did not.

14 Q. And he said he worked his way around and
15 got to the trail off of Love Lane. And you said
16 that's where he was vague with you about describing
17 how he got on this trail?

18 A. Right.

19 Q. But on July 4 and July 6 neither you nor
20 Brown nor Jaramillo had ever gotten to the first
21 place where the pavement turns to dirt, which is
22 right here. If Mr. DeMocker rode down Boone Court,
23 he would have been on pavement coming from Rainmaker
24 all way to this point; right?

25 A. True.

1 Q. Okay. If he had gone around another way,
2 taking some of these other streets that are off this
3 map, coming around here and got onto the Love Lane
4 trail this way by coming up Love Lane and turning
5 down this spur, he'd been on pavement until this
6 part; right?

7 A. True.

8 Q. And this is -- if you're riding a mountain
9 bike and you are a reasonable Luis Huante level bike
10 rider, it wouldn't be difficult at all to continue
11 to right your bike down this road and get onto this
12 trail. You wouldn't have to get off your bike and
13 walk, would you?

14 A. Not necessarily. No.

15 Q. But once you got down in here, a Luis
16 Huante level bike rider started having trouble got
17 off and started walking; right?

18 A. To some degree. Yes.

19 Q. But you never got onto this trail until
20 July 19, 17 days after Mr. DeMocker was there;
21 right?

22 A. Right.

23 Q. Okay. So if Mr. DeMocker had left
24 distinctive shoe prints beginning in the sandy wash
25 and then all the way on the miles and miles and

1 miles of trails he said he rode, it was too late by
2 July 19 for anyone to see them; right?

3 A. Right.

4 Q. And you weren't really even looking for
5 them on July 19; right?

6 A. By that time it had rained in that area,
7 so most likely were gone.

8 Q. And you weren't looking for them. You
9 told us yesterday that your bike ride wasn't to look
10 for Mr. DeMocker's tracks. It was just to retrace
11 his ride?

12 A. Right.

13 Q. So you may have ridden over a shoe print
14 made by one of these shoes and just never seen it;
15 right?

16 A. That's highly unlikely. I don't see how
17 one of those prints would have remained that long in
18 that area.

19 Q. Oh. Okay. But if it had somehow -- if it
20 had -- if it had been up under a bush, you weren't
21 looking for it?

22 A. Under a bush? Why would I look under a
23 bush?

24 Q. You're riding by and there is a bush right
25 on the edge of the trail. There is a shoe print

1 there. Did you look for it?

2 A. Not to that degree. No.

3 Q. Okay. Now, part about police work, as we
4 know in this case quite well, is to document work
5 that you're doing investigation that do you;
6 correct?

7 A. True.

8 Q. It's important to document them for any
9 number of reasons; correct?

10 A. True.

11 Q. One of the reasons for documenting in
12 written reports is so that other police officers
13 have the collective knowledge of all of if; correct?

14 A. True.

15 Q. And that's something that you as a
16 supervisor rely on all the time -- other officers'
17 written reports; right?

18 A. Right.

19 Q. In fact, there is an approval process in
20 Yavapai County Sheriff's Office where a deputy at a
21 level below you or even a detective at a level below
22 you writes a report, it has to be approved by
23 someone up the chain of command; right?

24 A. Right.

25 Q. Okay. And so all the police reports in

1 this case will say at the bottom approved by?

2 A. Right.

3 Q. And you approved many, many reports in
4 this case; right?

5 A. Yes.

6 Q. And part of the approval process is
7 reading those reports; right?

8 A. Yes.

9 Q. And if something is unclear or confusing,
10 part of the approval process and the supervisory
11 process would be for you to have the author of that
12 report to correct it?

13 A. Yes.

14 Q. That happens; right?

15 A. Yes.

16 Q. Where is the account of this; right?

17 A. Right.

18 Q. One of the things that you would not be
19 too thrilled with as a supervisor would be a deputy
20 or a detective under you who did work on a case as
21 important as this one without documenting it;
22 right?

23 A. To some degree. Yes.

24 Q. Because no one else, then, other than that
25 person would know about that work?

1 A. True.

2 Q. And there is a record system in the
3 sheriff's department. And what's the name of that
4 system?

5 A. I believe it's Spillman.

6 Q. And Spillman allows all kinds of people
7 with access -- law enforcement people connected to
8 the prosecution cases -- to go in -- using a
9 computer to go in and look at all the reports
10 connected to a particular case; right?

11 A. True.

12 Q. And, in fact, the reports are all given a
13 case number at the very beginning of the case. A
14 number is assigned, a departmental number. And that
15 number tracks all those reports throughout the
16 case. They're always connected to one number;
17 right?

18 A. I believe so. If you're saying there is,
19 like, a report number, yes.

20 Q. A DR number?

21 A. Yes.

22 Q. A departmental report number. And then
23 further, each report is called a "supplement"?

24 A. Right.

25 Q. The supplements are given numbers?

1 A. Right.

2 Q. Sequential. 1, 2, 3, 4, 5. You're up to
3 the hundreds in this case?

4 A. Right.

5 Q. And they're organized. Now, the second
6 reason is eventually those reports are going to be
7 turned over to the defense in the case?

8 A. Sure.

9 Q. So the defense, then, has the ability, at
10 least under Arizona law, to look at those reports
11 and then investigate from those reports, including
12 interviewing people who write reports; right?

13 A. Sure.

14 Q. When you were interviewed in this case
15 this February, you were asked about the reports you
16 had written because the defense had them; right?

17 A. Correct.

18 Q. Now, did you ever write a departmental
19 report about this July 6 trip up to Love Lane?

20 A. No, I did not.

21 Q. You told us about it in February --

22 A. Yes, I did.

23 Q. -- during the interview. Had you told
24 anybody else in the sheriff's department about it
25 between July 6, 2008, and February 26, 2010?

1 A. I believe I spoke with Doug Brown.

2 Q. So When Doug Brown comes, we can ask him
3 if he remembers you talking to him?

4 A. Right.

5 Q. Now, between July 6 when you couldn't find
6 where Mr. DeMocker said he was riding and July 19
7 when you go back up, tell us what else you did to
8 try and pin down that topic.

9 A. I also requested a group of volunteers and
10 Detective Alex Jaramillo to canvass the entire lane
11 of Love Lane, Rainmaker and Glenshandra in an
12 attempt to find somebody who might have seen
13 Mr. DeMocker. That is the reason I didn't document
14 it. Because I was going to send a group of people
15 out there to do a complete canvass.

16 Q. When did they go out there? I'm sorry.

17 A. I can't remember the exact date.

18 Q. These were law enforcement volunteers,
19 "VIP's"? Is what they're called?

20 A. Correct.

21 Q. And they went around and knocked on doors?

22 A. Yes.

23 Q. Okay. There was actually a little chart
24 produced?

25 A. Yes.

1 Q. Okay. Was anybody located who said they
2 saw Mr. DeMocker?

3 A. Not that I can remember.

4 Q. Okay. What were they asked? What were
5 the homeowners asked?

6 A. You would have to ask Alex Jaramillo.

7 Q. You don't remember?

8 A. I was not present for that.

9 Q. Tell us again what area you wanted
10 canvassed.

11 A. I believe I created the map that I wanted
12 to go down the areas and speak to people. And that
13 was Love Lane, Rainmaker and Glenshandra.

14 Q. Where you thought he was riding?

15 A. Yes. Trying to cover all the bases again.

16 Q. And all of Rainmaker from Williamson
17 Valley up to the top?

18 A. Yes.

19 Q. Every house?

20 A. Yes.

21 Q. All of Love Lane?

22 A. Yes.

23 Q. Any other streets on the west side?

24 A. Not that I can remember right now.

25 Q. And were people asking the homeowners if

1 they'd seen a silver BMW?

2 A. I don't remember exactly.

3 Q. We'll have to ask Alex Jaramillo?

4 A. Yes.

5 Q. And the VIP's? Perhaps they'll know?

6 A. Yes.

7 Q. You didn't do any of the canvassing?

8 A. No, I did not.

9 Q. What did you do to try and find the
10 trail?

11 A. When?

12 Q. After July 6 and before July 19.

13 A. I had no further information that could
14 lead me to that location until I spoke with his
15 girlfriend. That's when we determined that we had
16 both points.

17 Q. Now, you talked yesterday about sort of
18 being stymied, being stuck. You couldn't look for
19 the trail because you didn't know where at the end
20 of the ride Mr. DeMocker had stopped; right?

21 A. Right.

22 Q. Let's break that into pieces.

23 Mr. DeMocker told you where he started; right?

24 A. Right.

25 Q. But neither Jaramillo or Brown or you

1 could find where that was?

2 A. Right.

3 Q. If you never knew where he stopped, you
4 still could have continued to look for where he
5 started; right?

6 A. We did that.

7 Q. And quit; right?

8 A. Yes. There was -- where else would you
9 like me to look?

10 Q. Mr. DeMocker told you that he rode up on
11 the trail up towards Granite Mountain, and you told
12 him you knew where that was?

13 A. Yes.

14 Q. And you could have gone down that trail?

15 A. Based on the fact of Williamson Valley.

16 Q. But he didn't tell you he started at
17 Williamson Valley?

18 A. Correct.

19 Q. Okay. So you could have started to look
20 for a place to get into that trail that starts up at
21 the Williamson Valley trail head from this area,
22 from the Rainmaker Love Lane area; right? That's
23 what Mr. DeMocker was telling you?

24 A. I guess that's possible.

25 Q. But you didn't?

1 A. No.

2 Q. Okay. And then you were waiting for
3 information about where the ride stopped at the far
4 end; right?

5 A. To some degree. Yes.

6 Q. Okay. Mr. DeMocker told you that he had
7 been riding out. He was riding on the trail. He
8 got a flat tire, and he turned around and went
9 back. Back tracked; right?

10 A. Right.

11 Q. So you knew that; right?

12 A. Yes.

13 Q. If you had found his tracks, if you had
14 acted quickly and found his tracks at the start, you
15 could have simply followed his tracks until they
16 stopped and seen tracks going back the other way and
17 you would have known exactly where he stopped; right?

18 A. I would have had to travel many of those
19 trails in order to try to determine that.

20 Q. If you found tracks here where
21 Mr. DeMocker started his ride on the dirt -- if you
22 had ever been able to find those tracks, now that
23 you know this trail goes and connects to Trail 347,
24 347 is the main trail that goes all the way back to
25 the Williamson Valley trail head; right?

1 A. This area that you're talking about from
2 the pump house to the house there to the watch --
3 it's made out of boulders and sand. It would have
4 been difficult to find tracks there.

5 Q. But if you had discovered, as you did
6 eventually by looking at the forest service map, for
7 example, that there is a trail, Trail 309, and sure
8 enough it starts right here according to the forest
9 service.

10 A. According to the map, yeah.

11 Q. 309 goes down this easement right by the
12 unnamed gentleman's house, onto this trail by the
13 pump house and into the wash and goes down here and
14 you can see it down here. It keeps going.

15 And eventually, as we saw in your bike
16 ride video, it catches Trail 347, which is coming
17 along up around here; right?

18 A. Yes.

19 Q. Okay. And you've been on 347 before. You
20 knew where it started. It starts at the Williamson
21 Valley trail head; right?

22 A. Right.

23 Q. Okay. And, in fact, Doug Brown found
24 before you did where Trail 309 comes down and
25 catches 347 here, there is a sign that says 309 and

1 points back this way; right?

2 A. Right.

3 Q. Okay. So that would have been a way to
4 easily discover how you get from the neighborhood of
5 Rainmaker and Love Lane onto Trail 347; right?

6 A. Eventually. Yes.

7 Q. You could have -- it connects. There is
8 no mistake about it; right?

9 A. Yes.

10 Q. 309 connects to 347. And you could have
11 discovered that any number of ways. You could have
12 gone to the forest service and said are there trails
13 that go in the Rainmaker/Love Lane area to hook up
14 with other trails? You could have done that; right?

15 A. From my understanding, from what my
16 experience is, usually the forest service marks
17 their trails very clearly. So that is why I didn't
18 even begin to comprehend that that was the beginning
19 of the trail. There is no marker whatsoever.

20 Q. But you didn't ask the forest service
21 whether there was a way to get from this
22 neighborhood, Rainmaker and Love Lane and
23 Mr. Peterson's house, onto Trail 309 or whether
24 there wasn't. You never asked; right?

25 A. No.

1 Q. Eventually you found a map, a forest
2 service map, of the trails; and that was down by
3 Granite Basin Lake; right?

4 A. Right.

5 Q. And that map presumably would have been
6 obtainable at forest service headquarters on Marina
7 Street?

8 A. True.

9 Q. And that map sure enough shows this trail,
10 gives a name and a number, Trail 309, and it goes
11 where we said it goes in connection with 347; right?

12 A. Right.

13 Q. And then we've seen on the bicycle video
14 bicycle tracks on 347; right?

15 A. To some degree. Yes.

16 Q. So what I'm saying is that if you had
17 investigated this case differently in the first few
18 days, you might have if Mr. DeMocker was telling you
19 the truth, discovered his alibi. You would have
20 seen his bicycle tracks where he said he was riding
21 and up on 347. Even if you never saw any tracks on
22 349, if you got up to 347 and his tracks were there,
23 which they should have been -- right? -- and you
24 would have followed his tracks all the way until
25 they ended, if he's telling the truth?

1 A. Right. Correct.

2 Q. But Mr. DeMocker told you what he's doing,
3 and for the reasons you just told us here today and
4 yesterday, that didn't happen?

5 A. No. Because I was not able to determine
6 exactly where he was telling me he was at.

7 Q. Is that Mr. DeMocker's fault?

8 A. He did used to own property there. He is
9 familiar with the area.

10 Q. Was it Mr. DeMocker's fault that you
11 couldn't find where he said he was riding his bike?

12 A. I don't believe it's anybody's fault.

13 Q. Just happens? Stuff happens; right?

14 A. Sure.

15 Q. We talked yesterday about how important
16 that stuff was to Mr. DeMocker. That would have
17 been his alibi; right?

18 A. If he would have given clearer directions,
19 I would have found it.

20 Q. So it is his fault?

21 A. I'm just saying if he would have given me
22 clearer directions I would have found it. If he
23 would have told me you go between that house and the
24 pump house -- I was there -- I would have known.

25 Q. We'll come back to this in a minute and

1 we'll see what you and Mr. DeMocker talked about.
2 Did you ever tell Mr. DeMocker that you just didn't
3 understand where he was describing, that you just
4 did not know what he was saying?

5 A. Yes. That's why I asked him to draw me a
6 map.

7 Q. And he did?

8 A. It was a squiggly line.

9 Q. Maps are full of squiggly lines, aren't
10 they? Is that right?

11 A. Depends who is making the map.

12 Q. And tell me what you did. Because we can
13 see on the video Mr. DeMocker drawing that map on
14 that white board in the sheriff's office. Tell me
15 what you did to say what I don't understand where
16 these squiggly lines are. Where is it this?

17 A. I never said that.

18 Q. Doug Brown asked him some questions. And
19 on the video there is Mr. DeMocker pointing to
20 something up on the squiggly line map that he drew;
21 right?

22 A. I believe so. Yes.

23 Q. So you had control of the situation. You
24 had Mr. DeMocker in your office at the sheriff's
25 office, and he was answering your questions, and he

1 was telling you where he went. And at that point
2 there didn't seem to be any limitation to what you
3 could ask Mr. DeMocker about where he went. You
4 could have asked him for as much detail until he
5 stopped talking; right?

6 A. Which question would you like me to answer
7 first?

8 Q. Take your pick.

9 MR. BUTNER: Objection.

10 THE COURT: Sustained.

11 Q. BY MR. SEARS: Let's talk about having
12 Mr. DeMocker in your control. Mr. DeMocker was in
13 the sheriff's office; right?

14 A. Yes.

15 Q. Mr. DeMocker was answering your questions;
16 right?

17 A. To some degree.

18 Q. We have the video. What he was asked and
19 what he said is captured on that video?

20 A. Right.

21 Q. As difficult as it is to hear?

22 A. Right.

23 Q. And among the things he was asked was to
24 give a verbal description of where he'd been;
25 correct?

1 A. Right.

2 Q. And then when there was apparently not a
3 clear view, he was asked to draw a map; correct?

4 A. Right.

5 Q. And he drew a map; correct?

6 A. Right.

7 Q. So at that point he's doing what you're
8 asking him to do. He's telling you where things
9 are. When you don't understand, he's trying to
10 explain further, as you ask him; right?

11 A. To some degree.

12 Q. He didn't say that's it. If you can't
13 figure out, I'm not going to help you any more. He
14 didn't quit telling you when you were asking him
15 about the map; right?

16 A. No.

17 Q. You could have asked him any number of
18 follow-up questions; right?

19 A. I believe I did.

20 Q. Okay. And that's part of good police
21 interrogation that if a witness is being evasive,
22 incomplete or vague, good interrogation practice
23 would have you ask different, more focused
24 questions; right?

25 A. I believe I was.

1 Q. And you could have asked questions until
2 either you got the answer you needed or Mr. DeMocker
3 stopped answering questions -- right? -- about where
4 he rode his bike?

5 A. Right.

6 Q. Now, you could have asked him: You said
7 you got a flat tire. Where did that happen? You
8 could have asked him any number of questions about
9 that?

10 A. We did ask him. He said he was up on top
11 of the basin, on the trail. That's the description
12 he gave us.

13 Q. You could have asked him for a better
14 description; right?

15 A. That's all he provided.

16 Q. I understand. But you could have asked
17 him for a better description?

18 A. I guess I could have. Yes.

19 Q. But you didn't?

20 A. No.

21 Q. And that -- knowing where he ended his
22 bike ride was important for what reason?

23 A. To see how far he had gone.

24 Q. Which is a fact that could have been
25 determined in other ways; right?

1 A. Don't know that.

2 Q. By finding his bicycle tracks and
3 following them until they stopped?

4 A. If I would have found that location, based
5 on the description, I would have followed those --
6 that track or whatever it was to see if it was
7 true. I would have done that.

8 Q. But you never could find the starting
9 point?

10 A. Yes.

11 Q. Until apparently July 19; is that right?

12 A. Right.

13 Q. Tell us why on July 19 you decided that
14 you would do this helmet cam ride beginning from
15 Boone Court. Why did you start there?

16 A. Why?

17 Q. Yes.

18 A. Why did we do the video?

19 Q. No. Why did you start at Boone Court?

20 A. Because that was the only possible
21 location that the map that I found led me to.

22 Q. Even though Mr. DeMocker told you he
23 started up on Rainmaker, you started on Boone Court?

24 A. I don't know exactly where on Rainmaker.
25 There is lots of for sale signs. There is a lot of

1 areas up there. I don't know exactly where.

2 Q. Right. Mr. DeMocker, though, never told
3 you once that he rode on Boone Court. That was not
4 in any description that he gave you; right?

5 A. I was trying to recreate where he started.

6 Q. I understand. Let me show you again 2652,
7 which is not in evidence yet. I ask you again in
8 light of what we talked about today if you recognize
9 what's depicted in that photograph?

10 A. No, sir.

11 Q. Still don't?

12 A. No.

13 Q. Okay. Someone -- Doug Brown talked to
14 Renee Girard, Mr. DeMocker's girlfriend. And she
15 said that she and Steve had tried to find where he
16 had had his flat tire and turned around. Is that
17 what you said?

18 A. They went hiking where he rode his
19 bicycle.

20 Q. Okay. But they didn't start from the Love
21 Lane end; right? They started from the opposite end
22 down by Granite Basin Lake; right?

23 A. That's correct.

24 Q. Okay. And she said she would be happy to
25 take you all, you being Brown and you, and try to

1 show you where Steve had taken her; right?

2 A. Yes.

3 Q. And she did that; right?

4 A. Yes.

5 Q. Where did she take you?

6 A. She took us to the parking area of the
7 Cayuse day-use area.

8 Q. Okay.

9 A. Which is in Granite Basin Lake.

10 Q. Way down off this map, south and west of
11 this location?

12 A. Yes.

13 Q. How far by trail from this point here
14 at --

15 A. How far?

16 Q. Yes.

17 A. I don't know, sir.

18 Q. Miles?

19 A. Many.

20 Q. What we saw on the video?

21 A. Yes.

22 Q. Long, long ways down the strip?

23 A. At least seven or eight.

24 Q. Okay. And did she say that Mr. DeMocker
25 had told her that he had ridden his bike to that

1 parking lot?

2 A. No.

3 Q. Why did you go to the parking lot?

4 A. I was trying to show what the area looked
5 like and so I could depict it from one point to the
6 other.

7 Q. So you picked that Cayuse trail head
8 parking lot?

9 A. Yes. That is a known area. So everybody
10 would be able to decipher that's where it was at.

11 Q. And where did Renee take you?

12 A. That's where we started.

13 Q. Okay. Where?

14 A. At day-use Cayuse area.

15 Q. And went where?

16 A. We went -- I believe we walked in a
17 southeastern direction. And that's where the
18 Trail 346 begins.

19 Q. Okay. Which is a spur off of Trail 347;
20 right?

21 A. Right.

22 Q. Okay. And did Renee tell you that she and
23 Steve had started their hike at the Cayuse trail
24 head?

25 A. Yes.

1 Q. And she was trying to take you exactly
2 where they hiked; right?

3 A. Yes.

4 Q. But she didn't tell you that Steve had
5 ridden his bike all the way down the trail; right?

6 A. No.

7 Q. She said he stopped somewhere on the trail
8 and had a flat tire; right?

9 A. Yes.

10 Q. She was trying to take you to that spot?

11 A. Right.

12 Q. And she was having difficulty doing that;
13 right?

14 A. Right.

15 Q. Why?

16 A. I don't know.

17 Q. She just couldn't remember?

18 A. She couldn't -- she had trouble
19 remembering, I guess.

20 Q. Did she tell you that?

21 A. She kept saying that she wasn't sure.

22 Q. And she was a little confused?

23 A. I guess so.

24 Q. And did she do something to try and help
25 remember where she was supposed to be walking?

1 A. Yes.

2 Q. What did she do?

3 A. She called Mr. DeMocker.

4 Q. And you were standing there when she was
5 talking to Mr. DeMocker?

6 A. Yes.

7 Q. Did you hear Mr. DeMocker say put them on
8 the phone with me?

9 A. No. That's not what he said.

10 Q. Did Mr. DeMocker appear to be talking with
11 her?

12 A. Yes.

13 Q. And as a result of that communication, did
14 she seem to have a better idea of where she and
15 Steve actually walked?

16 A. Yes.

17 Q. And so where did you go from there?

18 A. She -- we eventually ended up near the
19 gate, which is the trail for 346. And she believed
20 that was where she was at.

21 Q. Somewhere near a gate?

22 A. Right.

23 Q. Okay. And this was what day?

24 A. I don't remember what the 19th -- I take
25 that back. That was before the 19th. I don't

1 remember what day that was.

2 Q. I think you told us yesterday maybe a week
3 before?

4 A. I believe so.

5 Q. Another weekend?

6 A. I don't think it was a weekend.

7 Q. Now, were you looking for bicycle tire
8 impressions in the dirt?

9 A. Based on what I saw in that area, it's
10 very rocky. Very unlikely that we would find
11 anything.

12 Q. Okay. And how far up did you go -- you
13 went up 346. Did you get up onto Trail 347?

14 A. I did not.

15 Q. He kept on walking up 347?

16 A. I believe he walked 347 to 345 and then
17 back down.

18 Q. 345 is another spur trail that drops down
19 to Mint Wash?

20 A. Yes.

21 Q. Mile or two up the trail; right?

22 A. That's possible.

23 Q. Okay. Did Renee tell you that she and
24 Steve had also been looking for the place where
25 Steve thought he had brushed against something that

1 cut him?

2 A. Yes.

3 Q. Did she say they did anything to try and
4 identify that?

5 A. I believe they put some sort of pink
6 flagging on it or something like that.

7 Q. Okay. Did she tell you where that was?

8 A. She tried. But, again, not very
9 descriptive of where it was.

10 Q. Renee told you that this was not an area
11 she was terribly familiar with; right?

12 A. Right.

13 Q. No more familiar than Doug Brown?

14 A. Right.

15 Q. Okay. And did you ever see any pink
16 flagging?

17 A. No. I did not.

18 Q. Okay. Do you know where on the trail she
19 said that flagging was from where you stopped
20 hiking?

21 A. No, I don't.

22 Q. Did you get the impression it was further
23 up the trail back towards this location?

24 A. I'm not quite sure.

25 Q. Did you ever hear from Doug that he found

1 some pink flagging?

2 A. I remember Doug Brown telling me he was
3 out there hiking and might have seen the pink
4 flagging. That's exactly why he went that day when
5 we spoke with her, to see if he could find that pink
6 flagging. Because he had been there before hiking
7 that area. And it was not there anymore.

8 Q. So he saw it one time?

9 A. Yes. I believe -- he went there hiking on
10 his own prior to Renee showing us.

11 Q. Sometime between the 6th of July and
12 whatever day this was, the 11th or 12 of July?

13 A. Correct.

14 Q. And he'll tell us when that was?

15 A. Yes.

16 Q. And he remembers seeing some pink flagging
17 but he didn't know what it was?

18 A. Yes.

19 Q. Are you familiar in the national forest
20 with the use of pink surveyor's tape to mark trails?

21 A. I see them -- when I ride I've seen
22 several markers.

23 Q. Do you ever see people taking it down?

24 A. No. I've seen them.

25 Q. Are you aware that the forest service

1 frowns on people marking trails or hanging anything
2 on growing plants in the forest?

3 A. I wasn't aware of that.

4 Q. But you think based on what you learned
5 from Doug that wherever this pink flagging was he
6 couldn't find it again?

7 A. Right.

8 Q. So he thinks it was taken down?

9 A. Yes.

10 Q. Do you think Mr. DeMocker went and took it
11 down?

12 A. I don't know.

13 Q. Anything is possible; right?

14 A. Right.

15 Q. Do you think some well-meaning citizen
16 took it down?

17 A. That's possible.

18 Q. A forest ranger took it down?

19 A. That's possible.

20 Q. Or he just didn't find it?

21 A. I don't know about that because he was
22 gone for quite a while.

23 Q. Now, let's just suppose here that
24 Mr. DeMocker had accurately identified the bush that
25 had scratched him so deeply and had marked it with

1 flagging and you found it. That could be
2 potentially important; right?

3 A. True.

4 Q. Because, first of all, you could look at
5 it and see whether or not it looked like something
6 that could cause scratches like that if you rode by
7 quickly on a bicycle; right?

8 A. Sure.

9 Q. And there might be biological evidence on
10 that plant; right?

11 A. That's possible but not probable.

12 Q. But it's possible; right? Stranger things
13 have happened; right?

14 A. Yes.

15 Q. Anything is possible; right?

16 A. Right.

17 Q. So that could have been important; right?

18 A. Right.

19 Q. But that never got investigated; right?

20 A. Yes, it did. We attempted to find it.

21 Q. Saw it one time, couldn't find it again?

22 A. Right.

23 Q. Saw it the first time, didn't know what it
24 was?

25 A. Correct.

1 Q. More bad luck for Mr. DeMocker perhaps;
2 right? Anything is possible?

3 A. Sure.

4 Q. Now, let's talk about Mr. DeMocker's
5 bicycle if we could for a minute. We talked about
6 the pedals and the shoes in this case. And you said
7 that a bicycle with these kinds of pedals -- and
8 let's take a look at the pedals we are talking
9 about -- 2536 -- just to help us remember pedals.

10 These are the pedals on Mr. DeMocker's
11 bike. You can see here in these pedals how they
12 work. You can see that the -- this area right here,
13 the front part of the cleat on the bottom of the
14 shoe snaps right into that area there; right?

15 A. Right.

16 Q. Okay. And it's the same top and bottom
17 that these pedals spin around. There is an
18 identical cleat on the other side?

19 A. I believe so.

20 Q. Okay. So that means that if you're riding
21 your bike, you don't have to look down and adjust
22 the pedal before you clip in. You can put your foot
23 down and clip in; right?

24 A. Right.

25 Q. It's kind of like a ski binder. You snap

1 your foot in there. But when you want to release
2 it, you can just twist your foot to the side?
3 That's all you have to do to pop your foot out;
4 right?

5 A. I believe so.

6 Q. And that's for two reasons. One is so you
7 can get your foot out of there?

8 A. Right.

9 Q. And the other thing is so if you crashed
10 and you went down hard enough, just like skis, if
11 you went down hard enough and at the right angle,
12 your foot would pop out of the cleat on the pedal;
13 right?

14 A. It all depends on the tension that is on
15 the cleat.

16 Q. Right. Looks like there is way to adjust
17 that. Couple ways perhaps. This screw right here
18 you can adjust the tension?

19 A. Right.

20 Q. If you were really a dare devil, you could
21 clamp down on this so it would be --

22 THE COURT: Mr. Sears?

23 MR. BUTNER: Could we have that exhibit number,
24 please.

25 MR. SEARS: 2536.

1 THE COURT: You may continue.

2 MR. SEARS: Thank you. I have difficulty
3 hearing anybody behind me, Your Honor. I'm sorry.

4 Q. Now, you could tighten the tension on this
5 and make it very, very difficult to take your foot
6 out; right?

7 A. Right.

8 Q. But then you would be running the risk of
9 something bad happening if you went down very hard
10 with your foot twisted in this pedal; right?

11 A. Right.

12 Q. Okay. On the other hand, if you had it
13 too loose, your foot might flop out of there too
14 easily?

15 A. Right.

16 Q. So you want to find some happy medium
17 where you can get your foot out but it doesn't come
18 out every time you take a pedal stroke; right?

19 A. Right.

20 Q. And you said it's possible to ride on
21 these pedals -- you could ride them with any kind of
22 shoe; right?

23 A. Yes.

24 Q. And if you were a real masochist, you
25 could probably ride barefoot?

1 A. I not know.

2 Q. It wouldn't be fun, but you could do it;
3 right?

4 A. Probably could.

5 Q. If you could take the discomfort. Okay.
6 But clearly these pedals were designed to be used
7 with the kinds of shoes we looked at here just a
8 moment ago; right?

9 A. Right.

10 Q. That's what they were designed for;
11 right? Mr. DeMocker owned at least two pairs of
12 shoes that would be compatible with this pedal
13 system?

14 A. Right.

15 Q. And, in fact, this is a standard -- it's
16 called "SPD." It's a kind of pedal system made by
17 different manufacturers; right?

18 A. Yes. There is many.

19 Q. And it's a very common biking pedal system
20 if people want to have a system that clamps their
21 shoe to the pedal; right?

22 A. Sure.

23 Q. And one of the reasons you want to have
24 your foot clamped to the pedal is that unlike the
25 situation where your riding with just tennis shoes

1 or sneakers, if your foot is clamped you can push
2 down and then pull up as you go around the pedal
3 strokes. You can pull up on the pedal and get more
4 power because the sole of your shoe is attached to
5 the pedal?

6 A. Right.

7 Q. So for people who are riders of a certain
8 skill level, this is the preferred pedal system;
9 right?

10 A. It's the rider's choice.

11 Q. And good riders can ride the kind of
12 pedals you told us you have and good riders can ride
13 this kind of pedal; right?

14 A. Sure.

15 Q. Now, it's not particularly difficult, is
16 it, to get your foot out of this? If you come up
17 and have to put a foot down because you come up to a
18 rock or something, you just twist your foot and it's
19 free; right?

20 A. When you become efficient at it. Yes.

21 Q. But after a while it's just like anything
22 else? It's not that difficult to do; right?

23 A. I never used those kind so I wouldn't be
24 able to tell you.

25 Q. Presumably, though, if it was difficult to

1 get your foot out, it would be so dangerous that
2 only the most experienced riders would use these
3 pedals?

4 A. True.

5 Q. Have you ever actually ridden on these
6 pedals?

7 A. Not that kind.

8 Q. Have you ever ridden on -- these are
9 called "clipless pedals" for some reason; right?

10 A. I think there is another name. I think
11 they call them "egg beaters."

12 Q. Does kind of look like an egg beater,
13 doesn't it?

14 A. Yes.

15 Q. Okay. You've ridden on something similar
16 to this but not this exact kind?

17 A. Not similar to this. No.

18 Q. Okay. Now, let's talk about
19 Mr. DeMocker's bike itself. Let me show you 2543,
20 which has not yet been admitted, and ask if you can
21 recognize what's depicted in that photo.

22 A. Yes.

23 Q. And this is something you've seen. It's
24 in the condition with enough identifying
25 circumstances that you can tell me what that is?

1 A. Yes.

2 MR. SEARS: I would move 2543, Your Honor.

3 MR. BUTNER: No objection.

4 THE COURT: 2543 is admitted.

5 (Exhibit 2543 admitted.)

6 Q. BY MR. SEARS: And here is Mr. DeMocker's
7 bike, which has visited us in court here. It got
8 the wheels off the front and back; right?

9 A. Right.

10 Q. But you can see the pedals down here are
11 still on the bike. Those can be removed?

12 A. Yes.

13 Q. And you can see the suspension forks.
14 These are shock absorbers on the front, and this is
15 a shock absorber for the back wheel; right?

16 A. Right.

17 Q. This makes it a fully suspended bike.
18 When you're going over bumps in the front, the shock
19 absorbers absorb some of the shock of the bump as
20 you're going down the hill; right?

21 A. Yes.

22 Q. And same thing on the back. The shock
23 transmitted off the seat post is dampened by the
24 shock absorber; right?

25 A. I don't think the seat post is connected.

1 Q. Right. But if you bump over something on
2 the rear wheel, you're going to feel it in your
3 seating area as it's transmitted up the seat post;
4 right?

5 A. I believe that is why that shock is there,
6 to prevent that.

7 Q. Right. That's what I'm saying. If you
8 didn't have that shock and you hit a bump, even if
9 the front wheel was forgiving, if you didn't have
10 this on the back wheel you'd feel it right up
11 through your rear end; right?

12 A. Right.

13 Q. And if you're riding fast down a bumpy
14 road, that happens have pretty frequently; right?

15 A. Yes.

16 Q. And it's pretty tiring, and it's one of
17 the things that is not much fun about mountain
18 biking?

19 A. Okay.

20 Q. Do you enjoy it?

21 A. That's why I've fallen down many times.

22 Q. Now, this actually suspended bike makes a
23 bike heavier -- right? -- because you have now these
24 shock absorbers. And if they were not there, the
25 bike would be presumably lighter than it is; right?

1 A. It all depends on the manufacturers. Some
2 are much lighter than the others.

3 Q. Okay. And a fully suspended mountain bike
4 like this, relatively speaking, is a comfortable
5 bike to ride on bumpy roads because you have the
6 benefit of front and rear shock absorbers; right?

7 A. Sure.

8 Q. Now, we don't have a picture of the wheels
9 here. But we actually looked at the wheels.
10 Mr. DeMocker's story to you the night that you
11 questioned him was he got a flat tire; right?

12 A. Right.

13 Q. And he got a flat tire on the rear tire of
14 his bike; right?

15 A. Right.

16 Q. And that he tried to put air in it;
17 correct?

18 A. Yes.

19 Q. But he was unable to get the tire to hold
20 air for any period of time. So after a while he
21 sort of bagged that and rode in on the flat; right?

22 A. Yes.

23 Q. And it's possible if you don't care how
24 much damage you're doing to the rim to ride a bike
25 short distances particularly on pavement with a flat

1 tire; right?

2 A. It would be difficult.

3 Q. It's not fun and it's not good for the
4 bike, but it can be done?

5 A. Possibly. Yes.

6 Q. Just like riding clipless pedals without
7 the proper shoes, it can be done?

8 A. Yes.

9 Q. Now, you looked at the tire and determined
10 that it was, in fact, flat when it was brought out;
11 right?

12 A. Yes.

13 Q. Okay. And you looked at the inner tube --
14 this is the kind of tire that has a rubber inner
15 tube?

16 A. Right.

17 Q. And a very knobby tire that the inner tube
18 goes in; right?

19 A. Right.

20 Q. And then has a valve where the air is put
21 in; right?

22 A. Right.

23 Q. And there are a couple of different kinds
24 of valves that you're familiar with for bicycles.
25 Presta and Schrader; right?

1 A. Correct.

2 Q. And which kind of valve was on the inner
3 tube on DeMocker's bike?

4 A. Presta.

5 Q. The Presta valve is a very thin little
6 valve that has a tiny little screw top on it; right?

7 A. That prevents -- it locks the mechanism so
8 the air doesn't leak.

9 Q. So to put air in it, you loosen that
10 little screw top and put a pump over it, and you can
11 pump it and then screw the top down; right?

12 A. Correct.

13 Q. Do you have Presta valves on your bike?

14 A. No.

15 Q. You have Schrader, which are a little
16 bigger and sturdier?

17 A. Correct.

18 Q. Presta valves are easily damaged, aren't
19 they?

20 A. That's been my experience.

21 Q. Particularly if you're riding off-road, if
22 they get banged around. And they can leak; right?

23 A. Sure.

24 Q. They can also leak where the metal valve
25 goes into the rubber inner tube; right. They can

1 leak down at that place where the metal valve itself
2 goes down into the inner tube; right?

3 A. Sure.

4 Q. Okay. And bike inner tubes can go flat a
5 number of other ways; right?

6 A. Yes.

7 Q. You can get a puncture. You can get a
8 hole. A thorn is very common in this area -- a
9 puncture of a mountain bike tube; right?

10 A. Sure.

11 Q. And it goes right through the thick rubber
12 tire and pokes a hole in the inner tube; right?

13 A. Sometimes.

14 Q. Okay. And sometimes you can just run over
15 an object, a rock or something, and get a puncture;
16 right?

17 A. Depends on the tire.

18 Q. Okay. There is another kind of flat
19 called a "pinch flat"? Do you know what a pinch
20 flat is?

21 A. No.

22 Q. A pinch flat is where the inter tube
23 sitting in the rim, the metal rim, where a peace of
24 the inter tube is pinched against the metal rim;
25 right?

1 A. That's when you strike a hard object.

2 Q. Right. Go over a rock or off a curb or
3 something like that; right?

4 A. Sure.

5 Q. Okay. And the inner tube actually roles
6 up over the rim and it pinches and creates a hole in
7 it right there; right?

8 A. Sure.

9 Q. And sometimes that's called a "snake
10 bite." Have you ever heard that expression?

11 A. No.

12 Q. Have you ever seen a pinch flat that has
13 two little holes?

14 A. Right.

15 Q. That looks kind of like a snake bite?

16 A. Right.

17 Q. And pinch flats, depending on how they --
18 sometimes they can actually tear the inner tube;
19 right? Make a little tear in the inner tube?

20 A. Yes. That's possible.

21 Q. And then you can have humongous -- you can
22 run over a roofing nail and it will go right through
23 the tire and the inner tube; right?

24 A. Sure.

25 Q. So there are lots of ways that a bicycle

1 tire can go flat; right?

2 A. Right.

3 Q. Can also have an explosive blow out. Have
4 you ever had an explosive blow out?

5 A. Yes.

6 Q. That's particularly on a front tire a
7 fairly disturbing circumstances?

8 A. That's how I've fallen.

9 Q. It makes a bank and down you go?

10 A. Yes.

11 Q. Sudden loss of all air pressure?

12 A. Yes.

13 Q. And particularly if it's when you're going
14 fast, it can be dangerous; right?

15 A. Yes.

16 Q. A back flat is a little different, though;
17 right? A back flat doesn't affect immediately your
18 steering; right?

19 A. It can be controlled.

20 Q. It's a pain in the neck because to get to
21 a back flat, you have -- it's really easy to take
22 the front tire off on a bike like this. They have
23 quick release screws? There is an axle that goes
24 across here; right?

25 A. Usually front and back.

1 Q. But it's a bit more of a pain -- you can't
2 quite see it on this picture here. This is called
3 the "derailer"?

4 A. Correct.

5 Q. There is a device that uses the levers up
6 on the handlebars to change the gearing on the back
7 tire. So that's a fairly sensitive piece of
8 equipment right there; right?

9 A. It's pretty sturdy.

10 Q. If you fall on that and it gets banged, it
11 make it difficult or impossible to shift; right?

12 A. Usually if it bends it's difficult.

13 Q. Not a good deal. But you also have to
14 take that off. You can see this is where the axle
15 goes through the frame. This is a piece of the
16 frame. The rear axle goes through there. There
17 would be a quick-release skewer on the tire. This
18 is called the "jockey wheel"; right?

19 A. I believe so.

20 Q. Okay. And the chain goes around the
21 jockey wheel, around the derailer and around the
22 cogs on the back sprocket and back this way around
23 the chain. That's how the chain drives works;
24 right? It goes like that?

25 A. Right. On this bike. Different models

1 have different methods. On my bike the derailleur is
2 attached to the frame. The derailleur does not come
3 off when I remove the tire.

4 Q. These are called "chain rings"; right?
5 And a mountain bike typically has three of different
6 sizes -- a big one, a medium size one and a smaller
7 one?

8 A. Normally, yes.

9 Q. And that gives you depending on the number
10 of cogs on the back as many as 21 speeds; right?
11 Because you can have a cog and the front could be on
12 any one of these three rings?

13 A. Sure.

14 Q. So that gives a mountain bike a lot of
15 range? You can have a gear that's very easy to
16 pedal for going up steep hills; right?

17 A. Right.

18 Q. And you can have a gear that's very hard
19 to pedal for going fast downhill and all the range
20 in between, the 19 other gears in between; right?

21 A. Right.

22 Q. Now, when you're taking the tire off to
23 fix it on this bike particularly, you have to get
24 the derailleur out of the way, you have to take the
25 chain off. It's a little more work to get the rear

1 tire off. You have to open the brakes? You have
2 the brake calipers up here, and you have to open
3 them up -- right? -- to get the wheel off?

4 A. It's got a release lever.

5 Q. Has a little thumb lever. So it's a bit
6 more work to get the rear tire off?

7 A. Yes.

8 Q. Now, did you examine the inner tube on the
9 rear tire of Mr. DeMocker's bike?

10 A. I did not remove the wheel. No.

11 Q. Okay. Do you know if anybody else did?

12 A. It was send to the lab. It's possible
13 they might have examined it.

14 Q. Did you ever read the lab report in
15 connection with --

16 A. I may have. That was a while ago.

17 Q. Let me show you Exhibit 2544 in evidence.
18 This has up here Arizona Department of Public Safety
19 lab notes dated August 6, 2008. That's the DR
20 number, 2008723742?

21 A. Yes.

22 Q. That's their number. And there is the
23 Yavapai County number, 029129; right?

24 A. Right.

25 Q. That's the departmental report number.

1 This is clearly an examination of part of
2 Mr. DeMocker's bike; right?

3 A. I've never seen this.

4 Q. Let's look at it together. It's in
5 evidence. Says No. 400C. Removed inner tube;
6 right?

7 A. Right.

8 Q. Failure observed around valve stem, a
9 Presta type. Mr. DeMocker's rear tire had a Presta
10 valve; right?

11 A. Right.

12 Q. Filled inter tube with water, no leaks
13 observed, low pressure; right?

14 A. Right.

15 Q. Does that appear to you to be the
16 scientific examination by the DPS crime lab of the
17 inner tube on the rear tire of Mr. DeMocker's bike?

18 A. It appears to be.

19 Q. And you didn't examine it to see if there
20 were thorns sticking out of it, a snake bite
21 puncture or anything else; right?

22 A. No.

23 Q. Okay. The criminalist who wrote this
24 report said it was a failure around the valve stem;
25 right?

1 A. Right.

2 Q. And we talked a lot about patch kits when
3 you were testifying many weeks ago now. A patch kit
4 for a bicycle is a pretty simple set of materials?

5 A. Right.

6 Q. Little pieces of rubber; right?

7 A. Right.

8 Q. Sometimes with an adhesive backing? You
9 pull off something, and there is some sticky stuff
10 on the back; right?

11 A. Right.

12 Q. Sometimes a little tube of glue?

13 A. Usually the ones I carry are the
14 self-adhesive. You don't have to use glue.

15 Q. The old school ones might have a little
16 tube of glue, which is another thing. You have to
17 have a little pin.

18 A. Right.

19 Q. And the idea is you take the tube out.
20 You find the hole on the tube someplace, and you
21 either take the self-sticking or tube of glue and
22 you put the patch on it, let it dry, and then you
23 put the tube back in the tire on the wheel and off
24 you go; right? That's all it is? That's how the
25 patch kit is?

1 A. Yes.

2 Q. Now, if we had, though, in Mr. DeMocker's
3 case a failure observed around the valve stem, that
4 would be perhaps difficult, if not impossible, to
5 patch with the typical small piece of rubber and a
6 patch kit?

7 A. True.

8 Q. Okay. So it may well have been that
9 Mr. DeMocker looked at his own bike and said I'm not
10 going to take the time to take this apart. I'm just
11 going to see if it will hold air and off we go?

12 A. That's possible. Yes.

13 Q. But it wasn't ever really going to work
14 long-term because, as the criminalist said, there
15 was a failure, which I guess is criminalist
16 language, some kind of a leak around the valve stem;
17 right?

18 A. Right.

19 Q. And changing a tire -- in addition to the
20 extra work to get the rear tire off, changing a tire
21 is a pain in the rear end?

22 A. Depends on how many times you've done it.

23 Q. Like many things in life. It is not
24 something that's terribly enjoyable. You don't go
25 changing tires in the evening for sport; right?

1 A. Probably not.

2 Q. Something you have to do if you have to
3 do; right?

4 A. Right.

5 Q. Apparently Mr. DeMocker told you that he
6 elected not to do that; right?

7 A. I don't think he ever mentioned that he
8 was or was not going to look at his tire. He just
9 said he tried putting air in it. He would ride it
10 and have to stop and put air in again.

11 Q. He did tell you he had a flat tire, which
12 you confirmed when you saw the tire; right?

13 A. Right.

14 Q. And he told you he put air in it and it
15 wouldn't hold air?

16 A. Right.

17 Q. And that's apparently confirmed by the
18 criminalist?

19 A. Right.

20 Q. The tire itself didn't have any other
21 leaks. He put water in it -- right? -- and he
22 didn't see any leaks. So it's unlikely there was a
23 thorn or pinch flat or anything else going on
24 because the water would have leaked out; right?

25 A. I believe that using air would have been a

1 better way to test it due to the fact that the
2 rubber would have to expand, and then you would find
3 the leak. I don't know if you can expand that
4 rubber enough to find the leak.

5 Q. We'll have to ask the criminalist; right?

6 A. Right.

7 Q. You never heard of a criminalist testing
8 an inter tube by putting water in it?

9 A. No.

10 Q. First time for everything?

11 A. Yes.

12 Q. Anything is possible?

13 A. Right.

14 Q. If you were trying to look for an air
15 leak, though, you would have to wet the tire, put
16 something to see an air leak somewhere around the
17 valve?

18 A. Right.

19 Q. Have you ever gone to a bike shop where
20 they actually do that where they're putting a tube
21 back in and they put it in the sink? Ever see them
22 do that?

23 A. I've done it.

24 Q. It's an easy way to do it, look for
25 bubbles?

1 A. Right.

2 Q. Unlikely that Mr. DeMocker had access to a
3 tube of water on his bike ride?

4 A. True.

5 Q. Let's change topics here completely,
6 Sergeant. Let's talk about Mr. Knapp. Mr. Knapp
7 you said that you believe after investigation had an
8 alibi for his whereabouts at the time of Carol
9 Kennedy's murder?

10 A. Yes.

11 Q. And his alibi, to recap, was he had been
12 in Prescott -- and, in fact, I think we can -- if I
13 could have the easel. This is Exhibit 2394. I'm
14 afraid the folks at the far end might have a hard
15 time seeing that.

16 Your Honor, can we see if the jury can
17 see? Thank you.

18 Sergeant, if I could get you to step down,
19 sir.

20 Go to go over and stand by -- here is a
21 stick for you.

22 To orient, this is north up. We have
23 downtown here. We have Gurley Street and we have
24 Iron Springs Road heading west. We have Williamson
25 Valley Road north. We have Williamson Valley, and

1 we can see Bridle Path and Love Lane. Let's use
2 this map for a couple of things.

3 Before we get off the subject of the bike
4 ride, Mr. DeMocker told you that in general terms he
5 rode from -- I can't see from this far away but
6 somewhere up here around where Rainmaker was. And
7 he went south and west down in this area when he had
8 his flat. And then he pushed his bike, road it a
9 little bit and retraced his route back to his car.

10 That's what he told you; right?

11 A. Yes.

12 Q. The Williamson Valley trail that we talked
13 about so much is probably off this map. If you kept
14 on going up Williamson Valley Road, eventually it
15 goes out. And before you get to the outer loop
16 road, which goes over to 89 and Chino Valley, there
17 is a fire station and parking lot and big sign that
18 says "Williamson Valley Trail"?

19 A. Right.

20 Q. That's the place that you were most
21 familiar with. You had been there?

22 A. Yes.

23 Q. That's where 347 starts off. And 347
24 comes back down along here between Williamson Valley
25 Road and Granite Valley, which is over here. That's

1 the principal trail that Mr. DeMocker said he was
2 riding on?

3 A. Say it again.

4 Q. Mr. DeMocker said that he was riding
5 principally or mostly on Trail 347; right?

6 A. Right.

7 Q. Now, shifting gears back to Mr. Knapp.
8 Mr. Knapp said that although he lived at Bridle Path
9 in the guest house, that on the afternoon and
10 evening that Carol Kennedy was killed, he was down
11 here at this address down at the bottom -- 308 Verde
12 Lane -- which is the home of his former wife, Ann
13 Saxerud; right?

14 A. Right.

15 Q. And he said the reason for being there was
16 to visit with his sons; right?

17 A. I believe he goes every Wednesday to
18 visit.

19 Q. And do you think Mr. DeMocker knew that?

20 A. I don't know.

21 Q. How would Mr. DeMocker know that?

22 A. I never said that.

23 Q. You don't know that he knew that. Do you
24 have any reason to believe that he did?

25 A. I don't know.

1 Q. Do you have any proof that he knew?

2 A. I don't know that.

3 Q. Would that be a no?

4 A. Right.

5 Q. Okay. Thank you. Now, this address here
6 is in the southwest part of the city of Prescott --
7 308 Verde Lane; correct? Have you been to that
8 location?

9 A. No, I have not.

10 Q. Do you know at all where it is?

11 A. I have a rough idea.

12 Q. Okay. And we can see over here Alpine
13 Meadows, not very far away. Alpine Meadows is where
14 Mr. DeMocker lives?

15 A. Right.

16 Q. Hassayampa Golf Course; right?

17 A. Right.

18 Q. And this is Plaza West Drive. That's
19 where his office was.

20 A. Right.

21 Q. Here's Thumb Butte Road. As you head west
22 out of town it turns into Thumb Bute Road, goes up
23 to Thumb Bute Park and actually keeps on going and
24 makes a big loop. That's what Thumb Bute Road is;
25 right?

1 A. Right.

2 Q. And this is Willow Creek Road, which we
3 know Willow Creek Road eventually goes out and
4 intersects at Highway 89 near the golf course and
5 the airport?

6 A. Right.

7 Q. Pioneer Parkway is a relatively new
8 divided road that goes between Williamson Valley and
9 Highway 89. It's part of a parkway system that
10 eventually goes all the way to Prescott Country
11 Club; right?

12 A. Right.

13 Q. I think we've covered everything on this
14 map. So Mr. Knapp says here's where I was. I was
15 at Verde Lane and I was with my children and my
16 ex-wife that day; right?

17 A. Right.

18 Q. Okay. And I didn't get back to Bridle
19 Path until shortly after Carol Kennedy's body was
20 discovered before you got there. He said he was
21 driving home and he got back there and discovered
22 that the police were there; right?

23 A. Right.

24 Q. Now, I think you can resume your seat, if
25 you would, please.

1 I'm going to leave this up here for just a
2 minute. I'll ask you a couple questions about it.

3 Now, let's talk about Mr. Knapp's alibi.
4 I think we talked yesterday briefly about what was
5 done to check it. You said Mr. Knapp was
6 interviewed extensively at the scene that night. Is
7 that right?

8 A. Yes. He was interviewed.

9 Q. Okay. By whom?

10 A. I believe at the beginning it was for
11 Deputy Mark Boan.

12 Q. Right?

13 A. And then it was Detective Brown.

14 Q. Okay. And you've listened to the
15 recording of Detective Brown's interview with
16 Mr. Knapp at the scene on July 2?

17 A. Yes.

18 Q. Okay. And how long was that interview?

19 A. I don't remember.

20 Q. Okay. And you believe Detective Brown was
21 recording that interview?

22 A. Yes.

23 Q. Okay. And apparently Deputy Boan also had
24 a recorder running for at least some of the time he
25 was with Mr. Brown; correct?

1 A. Yes.

2 Q. Okay. Now, Mr. Knapp was asked about his
3 whereabouts; right?

4 A. Right.

5 Q. And what he said that evening, at least to
6 Boan, was he had been at this location on Verde Lane
7 since about 1:30 in the afternoon; right?

8 A. Right.

9 Q. And your subsequent investigation
10 determined that was not correct; right?

11 A. That was not correct.

12 Q. That he was not there at 1:30; right?

13 A. I don't remember what time it was, but he
14 was there.

15 Q. Okay. In fact, the investigation you
16 conducted showed that what Mr. Knapp did that night
17 was go to Ann Saxerud's house to baby-sit his
18 younger son, Alex, while Ann Saxerud took the older
19 boy to roller hockey practice at the rink out here
20 at Pioneer Parkway. That's what really happened;
21 right?

22 A. I believe so.

23 Q. Okay. And that Mr. Knapp was to be at Ann
24 Saxerud's house at 6:00 p.m., not 1:30; right?

25 A. I remember the time of 6:00 p.m., but I'm

1 not sure if he was there earlier than that.

2 Q. Can you remember any evidence that would
3 support Mr. Knapp's statement that he had been at
4 the Ann Saxerud house earlier than 6:00 p.m. on
5 July 2nd, 2008?

6 A. I did not conduct that interview, sir.

7 Q. Who did?

8 A. I believe it was either Detective John
9 McDormett or Detective Doug Brown.

10 Q. And did you review their reports and
11 listen to the tapes of the interviews at Ann
12 Saxerud's house?

13 A. Yes, I did.

14 Q. And you just can't remember here today
15 what the evidence is about where Knapp actually was?

16 A. Right.

17 Q. Okay. And at some point, then, Ann
18 Saxerud took the boy to hockey practice leaving
19 Mr. Knapp and young Alex at the Verde Lane house;
20 right?

21 A. Right.

22 Q. And she was gone for a period of time.
23 And when she returned, Mr. Knapp was there and left
24 shortly after that; right?

25 A. Right.

1 Q. And that that was, according to her
2 account, somewhere in the neighborhood of 8:30 p.m.;
3 right?

4 A. Right.

5 Q. And Mr. Knapp then arrived out at the
6 location sometime shortly after 9:00 p.m.; right?
7 The location being Bridle Path?

8 A. Yes. We also have Mr. Knapp on --

9 Q. We'll get there. I promise we'll get to
10 that. I know what you're going to do. Try and
11 answer my question. Okay? Can we do that?

12 A. I believe I have.

13 Q. Okay. Now, so that you can answer the
14 question you want to answer, let me ask you about
15 the phone call. Mr. Knapp had a cell phone;
16 correct?

17 A. Right.

18 Q. And cell phone records were eventually
19 obtained for that phone; right?

20 A. Right.

21 Q. Among the phone calls that Knapp made was
22 a call on that -- or somebody made using that
23 phone -- a call to check his voice mail; correct?

24 A. Yes. I believe so.

25 Q. And the way his voice mail called from

1 that phone is he dialed his own number; right?

2 A. I believe so.

3 Q. Okay. And he could retrieve voice mail;
4 right?

5 A. Right.

6 Q. And there was a voice mail checking call
7 recorded in the phone records shortly before
8 8:00 p.m. on July 2, 2008; correct?

9 A. I believe so.

10 Q. Okay. And subsequent investigation
11 indicated that that call to -- cell phone call
12 registered electronically off a cell phone tower in
13 Prescott; right?

14 A. True.

15 Q. Okay. Now, you're not an expert in cell
16 phone towers; right?

17 A. No.

18 Q. And do you know, by the way, if further
19 investigation was done on the cell phone tower in
20 question after you went off this case in April of
21 2009?

22 A. I believe so.

23 Q. Do you know a Sergeant Ray from the
24 Gilbert Police Department?

25 A. Yes, I do.

1 Q. Okay. Have you talked with him or looked
2 at any of his work in this case?

3 A. No.

4 Q. Do you know what his conclusions were?

5 A. No.

6 Q. Okay. That happened after were you off
7 the case?

8 A. Yes.

9 Q. Now, Sergeant Ray was also involved in
10 another piece of this, some work done on July 8,
11 2008; right?

12 A. Yes.

13 Q. Is that how you know him?

14 A. Yes.

15 Q. Okay. Now, the tower that Mr. Knapp's
16 voice mail call registered off of is a tower very
17 close to the Verde Lane address on something called
18 "Indian Hill." Do you know that?

19 A. No, I don't.

20 Q. Okay. You've seen cell phone towers
21 around Prescott. And there is a neighborhood over
22 near Verde Lane actually near the golf course. The
23 Hassayampa Golf Course is built over part of the old
24 Hassayampa Country Club; right?

25 A. I don't know that.

1 Q. Okay. That was before your time?

2 A. Yes.

3 Q. Okay. Do you know where Country Club
4 Drive is in Prescott?

5 A. I believe I've been on that.

6 Q. Okay. Have you ever seen the country
7 club?

8 A. No.

9 Q. And there is a hill in that general area.
10 Country Club Drive makes a little loop around a
11 hill. And on top of the hill is a cell phone
12 tower. Have you ever seen that?

13 A. I don't think so.

14 Q. Okay. If I told you that records indicate
15 that call registered off that tower, would you have
16 any reason to dispute that fact?

17 A. No.

18 Q. So one assumption could be that Mr. Knapp
19 was in the vicinity of that tower when his phone was
20 used to check the voice mail and registered sometime
21 a minute or two before 8:00 p.m.; right?

22 A. Sure.

23 Q. So that's the alibi you've been trying to
24 tell me about; right? Mr. Knapp and his phone are
25 in the general vicinity of Ann Saxerud's house at

1 very nearly the time Carol Kennedy screams "oh, no"
2 and the phone goes dead?

3 A. I believe so.

4 Q. And so the idea is that Mr. Knapp, then,
5 couldn't be out here at Bridle Path at the same time
6 because his phone is registering off a tower near
7 Ann Saxerud's; right? It's that simple; right?

8 A. Right.

9 Q. Okay. Now, I promise you that in this
10 trial there will be much more evidence and testimony
11 about these cell phone records. And I think you've
12 told me you don't know about Sergeant Ray's
13 investigation about coverage zones, about where that
14 phone could have been and still registered off that
15 tower; right?

16 A. I don't know that.

17 Q. Okay. And you don't know about how cell
18 phone towers work to hand off signals between tower
19 and tower; right?

20 A. No. I'm not --

21 Q. I understand that. But as far as you're
22 concerned, that is a piece of Mr. Knapp's alibi;
23 right?

24 A. True.

25 Q. When was that information obtained?

1 A. I don't know the exact date. I'm sorry.

2 Q. After July 8th?

3 A. It was done shortly after due to the fact
4 that I do know that if you don't retrieve that
5 information soon, it will disappear.

6 Q. Preservation letters were sent in this
7 case to the cell phone carrier saying hold on to
8 your records? We might want them later; right?

9 A. Right.

10 Q. And that was done and the records were
11 eventually obtained; right?

12 A. Correct.

13 Q. Did Mr. Knapp tell you about making that
14 call?

15 A. I don't remember if he did.

16 Q. Remember, Mr. DeMocker gave you his phone
17 and let you look through it; right?

18 A. Reluctantly.

19 Q. He gave you the phone. We've seen the
20 video. You took a video of his phone; right?

21 A. That was done pursuant to a search
22 warrant.

23 Q. Before that Mr. DeMocker had his cell
24 phone out. We can see it in the video; right?

25 A. True.

1 Q. He didn't hide it from you, did he?

2 A. We asked for the phone.

3 Q. And Mr. DeMocker said you could look at
4 his phone, and he gave you the phone; right?

5 A. True. While we were looking through it,
6 he asked us is this a search.

7 Q. Right. Because you were searching his
8 phone; right?

9 A. At that time we were just asking for help.

10 Q. Did that trouble you that Mr. DeMocker
11 asked you if you were searching his phone?

12 A. Yeah.

13 Q. Really?

14 A. Yes.

15 Q. Could I have your phone?

16 A. It's all depends on the conditions.

17 Q. Could I have your phone now?

18 A. No.

19 Q. It's not a search. I just want to look at
20 it.

21 A. You're not conducting an investigation.

22 Q. I'm conducting interrogation. May I see
23 your phone?

24 A. No.

25 Q. Okay. Now, Mr. DeMocker eventually gave

1 you his phone; right?

2 A. We asked for his phone.

3 Q. Okay. And he asked is this a search. And
4 you said oh, no? We're just going to look at your
5 phone?

6 A. Yeah. I want to get information due to
7 the fact he had been text messaging with his wife.
8 I needed to know that information. He wasn't very
9 willing to give it to me. By asking is this a
10 search, that's not somebody that's being
11 cooperative.

12 Q. Somebody being cooperative would give you
13 the phone, and he gave you the phone; right?

14 A. To some degree.

15 Q. You wouldn't give me your phone.

16 A. No.

17 Q. You're not being cooperative with me;
18 right?

19 A. No.

20 Q. Because you distrust my motives?

21 A. Yes.

22 Q. Okay. Do you think Mr. DeMocker might
23 have been a little concerned about the fact that
24 instead of just asking for information you were
25 asking about his phone, wanted to see what was on

1 his phone?

2 A. Yes. Due to the fact that he had advised
3 me he was text messaging with her that day, that
4 evening. That is important to me.

5 Q. We're talking about what's in
6 Mr. DeMocker's mind. And here's Mr. DeMocker in the
7 police station. He's just been informed that his
8 ex-wife of many years and the mother of his children
9 has been killed. And he's now down in the police
10 station with you, and you want to look at his phone;
11 right?

12 A. Yes.

13 Q. And you're saying that you were concerned
14 and thought it odd that Mr. DeMocker asked if that
15 was a search?

16 A. Yes. After we're at the scene, I advised
17 him what I wanted to do. I was very clear. I told
18 him I just want to look at your phone so I can see
19 when those messages were sent. That's very
20 important to me. That's very important for a time
21 line. And then soon after that he's asking me if
22 he's a suspect. That's another thing that sticks
23 out.

24 Q. We're talking about now at the police
25 station. You've talked to him out at the scene, and

1 he's agreed to come down to the police station to
2 answer your questions; right?

3 A. Yes.

4 Q. Down at the police station -- in fact, at
5 the scene there was a discussion about looking at
6 his phone, and there was a suggestion made that it
7 would be better to go downtown and look at his phone
8 because it was so dark at Bridle Path; right?

9 A. I don't think that was it.

10 Q. You don't remember Mr. DeMocker being told
11 that by Mr. Mascher?

12 A. I don't remember that. I believe at one
13 point I asked him if he was willing to go down.

14 Q. Now, let's talk about why Mr. DeMocker
15 might have asked whether this was a search or not.
16 When you would search his phone, if you were going
17 to search it, you would look through it for
18 information; right?

19 A. Right.

20 Q. That's what the search would be; right?

21 A. Right.

22 Q. And you said no? This isn't a search? We
23 want to look through it for information?

24 A. Yes.

25 Q. Do you see the possible basis for

1 Mr. DeMocker wanting to know whether this was a
2 search or not?

3 A. At that point I really didn't consider him
4 a suspect.

5 Q. Right. But he just asked if it was a
6 search; right? You said no. It's not a search. We
7 want to look through it for information.

8 A. Right.

9 Q. Is there any difference between looking
10 through it for information and searching if for
11 information?

12 A. I'd consider a search when I get a search
13 warrant.

14 Q. Okay. Did you tell Mr. DeMocker that?

15 A. No.

16 Q. Did Mr. DeMocker appear to be fully
17 familiar with police procedures?

18 A. To some degree.

19 Q. Was there any discussion with Mr. DeMocker
20 about him only turning his phone over if there was a
21 search warrant for it?

22 A. No.

23 Q. In fact, he gave you his phone; right? He
24 simply asked if it was a search. Isn't that what
25 happened?

1 A. Later on we asked for his phone. He
2 didn't --

3 Q. And he gave it to you due to the fact --

4 A. Due to the fact we were in the process of
5 obtaining a search warrant.

6 Q. And you got this phone and you looked
7 through it; right?

8 A. Not then. Until we got the search
9 warrant.

10 Q. The search warrant in your hand with the
11 gloves. And you've seen the video going through
12 Mr. DeMocker's phone?

13 A. Right.

14 THE COURT: Excuse me, Mr. Sears. It's time to
15 take the morning recess.

16 MR. SEARS: Sure.

17 THE COURT: Ladies and gentlemen, please
18 remember the admonition. Please be assembled at
19 five after, little over 15 minutes.

20 Thank you.

21 (Recess.)

22 THE COURT: The record will show the presence
23 of the defendant, the attorneys and the jury.

24 Sergeant Huante has returned to the witness stand.

25 Mr. Sears, when you're ready.

1 MR. SEARS: Your Honor, our investigator,
2 Mr. Roberts has cued up Exhibit 958, which is a
3 portion of the recorded interview conducted with
4 Mr. DeMocker. A particular portion we're going to
5 want to talk about is an interview that was done in
6 which Sergeant Huante participated out at the Bridle
7 Path location.

8 Q. Let me first talk to you a little bit
9 about that interview. We played that for the jury.
10 This is interview No. 2 of seven. And this was a
11 surreptitiously recorded interview of Mr. DeMocker
12 when he was out at the scene at Bridle Path. And
13 you participated in that; correct?

14 A. Yes.

15 Q. Okay. And also Detective Brown was
16 speaking to him as well; correct?

17 A. Yes.

18 Q. And you've listened to that. We've all
19 listened to that in court; correct?

20 A. I believe so.

21 Q. And you know that the sheriff's department
22 prepared a transcript of that recorded interview.
23 You've seen that; correct?

24 A. Yes.

25 Q. Okay. And let me show you what I've had

1 marked for identification as Exhibit 2660 and ask
2 you if you recognize these pages?

3 A. Yes.

4 Q. Those are a few pages of the transcript of
5 the second part of the interview with Mr. DeMocker,
6 being, in fact, the interview conducted out at the
7 scene at Bridle Path on the night of July 2, early
8 July 3; right?

9 A. I believe so. Yes.

10 Q. Are you done?

11 A. I think so.

12 Q. Thank you.

13 I would move 2660.

14 MR. BUTNER: Judge, this interview is already
15 in evidence. The transcript just needs to be
16 redacted. It's already in evidence. It's
17 duplicitous. No objection.

18 MR. SEARS: I think counsel may mean
19 duplicative. "Duplicitous" means dishonest.

20 MR. BUTNER: Thank you, Mr. Sears.

21 THE COURT: 2660 is admitted.

22 (Exhibit 2660 admitted.)

23 MR. SEARS: Thank you, Your Honor. What I
24 would propose to do, Your Honor, with the Court's
25 permission, is have Mr. Robertson play a portion of

1 the audio that's reflected in this and then display
2 the transcript on the ELMO so that it is a bit
3 easier to follow along here.

4 Q. Sergeant, if it's hard for you to read
5 over your shoulder like that, I will wouldn't have
6 any problem with you stepping down.

7 And what I'm going to do here is try and
8 start -- we'd noted the sergeant over here the time
9 on the tape at 514. And we're going to start the
10 audio portion with Detective Brown's statement at
11 514 on the tape.

12 Do you see where I am?

13 A. Yes.

14 Q. I'm going to try to keep pace with the
15 audio with the remainder of the tape.

16 Your Honor, with your permission, we'd
17 like to start the audio now.

18 THE COURT: Okay.

19 MR. SEARS: Can you ask if the jury can see?

20 THE COURT: Any time there is any problem in
21 seeing or hearing anything, let me know
22 immediately.

23 MR. SEARS: One more quick --

24 May we proceed?

25 THE COURT: You may.

1 MR. SEARS: Thank you.

2 (Exhibit 2660 is played.)

3 Q. BY MR. SEARS: Sergeant, this is a
4 recording that was made of Mr. DeMocker out at
5 Bridle Path just a few minutes after he learned that
6 Carol was dead; right?

7 A. Right.

8 Q. And this was when the discussion took
9 place that Charlotte and Jake and Steve would all
10 come down to the police station and answer
11 questions; right?

12 A. Yes.

13 Q. Okay. You heard Mr. DeMocker there offer
14 to go get his phone; right?

15 A. I believe so.

16 Q. And he said do you want my phone or do you
17 want me to bring it down? No. Let's just go down
18 and talk about it; right?

19 A. Right.

20 Q. Okay. And an unknown voice, which I think
21 might be Commander Mascher, says, it's kind of dark
22 here; right?

23 A. I believe so.

24 Q. Okay. Now, Mr. DeMocker says on
25 page 1783 -- this is after -- right before that you

1 said, I was wondering if you could do us an another
2 big favor. Could we go down to the station?

3 And he says, sure.

4 And you say, and by -- you know -- getting
5 access to your phone and seeing what the last text
6 message.

7 And he says quickly, so I'm a suspect.

8 No. No. What I'm saying is when she sent
9 me the text messages -- that's the point when you
10 were suspicious, when he said, I'm a suspect? In
11 that context?

12 A. At some point, yes. Nobody has ever asked
13 me that.

14 Q. He's volunteered to give you his phone.
15 You told him what you want to do, and you're going
16 to go through his phone. And you're saying that it
17 is suspicious that he would say so I'm a suspect?

18 A. That is a strange question to ask me if
19 you are being cooperative and you're volunteering.

20 Q. Okay. Look what he says up at the top
21 just before that. I know you have to do this.
22 Yeah. But are these questions about where I was?

23 No. I'm trying to find out a good time
24 frame which she sent those message.

25 So he's all of a sudden realizing that

1 rather than what you're telling him, which is this
2 is just an information gathering session, you're
3 asking questions that would establish where he was?
4 He's come to that realization; right?

5 A. I believe so.

6 Q. And, in fact, that's true. You were
7 asking him questions about where he was because he
8 was a suspect; correct?

9 A. It would be negligent of me not to ask
10 those questions.

11 Q. To a suspect; correct?

12 A. At that point he became one. At some
13 point in there he became one.

14 Q. At that moment? Is this the moment?

15 A. At some point he did.

16 Q. Can we put our finger right on it? So I'm
17 a suspect. And at that moment because he asked that
18 question, he's a suspect?

19 A. If you take all the interview into account
20 from the time that I began speaking to him there and
21 the time I ended the interview with him and all the
22 statements that he gave to me where he said I want
23 to cooperate, yes, I do -- but then he would say
24 other statements like is this going to take all
25 night? Can we make this quick? I have to go to

1 work tomorrow. Those are all statements that
2 concern me.

3 Q. And made him a suspect?

4 A. Yes.

5 Q. Seven minutes and 20 seconds into your
6 conversation with him at the scene?

7 A. I'm not saying at that particular point.
8 What I'm explaining to you is throughout the
9 interview all the statements that he gave to me
10 concerned me. Yes.

11 Q. I thought you just told us that when he
12 said so I'm a suspect, in your mind, he became a
13 suspect.

14 A. At some point, yes. He did.

15 Q. Seven minutes and 20 seconds into this
16 conversation?

17 A. You misunderstood. Throughout the
18 interview all the things that he said to me made me
19 very concerned.

20 Q. Including do you want my phone or do you
21 just want me to bring it down there? That was what
22 a suspect would say?

23 A. Suspects have told me many things.

24 Q. Mr. DeMocker offers to give you his phone
25 or bring it down so you can look at it at the police

1 station. Right there that's what it says; correct?
2 Seven minutes and 48 seconds.

3 A. I believe prior to that we were asking him
4 if we could look at it. So he didn't offer his
5 phone.

6 Q. Let's go back to the beginning of the
7 discussion. Mr. DeMocker tells you -- do you have
8 your phone? It's in the car? We might be able to
9 tell time and all that. And he goes on and says, I
10 know you have to do this, but are these questions
11 about where I was? Okay. Only a guilty person
12 would be concerned that were you asking questions
13 about where he was?

14 A. Again, sir, based on all the interview
15 that I conducted with him and the statements that he
16 gave me, they concerned me.

17 Q. You had been talking to him for seven
18 minutes at that point. Seven minutes; right?

19 A. Right.

20 Q. So when you say all of the interviews that
21 you conducted led you to be suspicious, you're
22 talking about all of seven minutes; correct?

23 A. No. No. I'm talking about the entire
24 interview that we conducted.

25 Q. I'm trying to find out when you first

1 concluded that Mr. DeMocker was a suspect. I
2 thought you told us pretty clearly when he said, am
3 I suspect?

4 A. You misunderstood, sir. That's not what I
5 meant.

6 Q. You started to get suspicious at some
7 point?

8 A. At some point I did. Yes.

9 Q. That's part of your investigative
10 technique? If somebody asks if they're a suspect,
11 you start thinking about whether they're a suspect
12 or not? You've never had that happen?

13 A. That's the first time that's ever been
14 asked of me in 17 years.

15 Q. But you were asking him questions about
16 where he was and what he was doing; right?

17 A. To some degree.

18 Q. You know that Mr. DeMocker is an
19 intelligent, educated man; right?

20 A. Yes.

21 Q. Do you think for a minute that
22 Mr. DeMocker would be misled or confused about what
23 you were asking?

24 A. I don't know what he thought.

25 Q. You're asking him questions about where he

1 was that night; right?

2 A. We started asking about his phone and text
3 messages that he received, that he was sending.

4 That was the conversation we were having with him.

5 Q. Here's what you were asking Mr. DeMocker
6 at the beginning of this section: Interview No. 2
7 before we got to 720 mark he said, am I a suspect?
8 You asked him --

9 MR. BUTNER: Page number, please.

10 MR. SEARS: Page No. 1780, Exhibit 958, Your
11 Honor.

12 Q. Brown asked him about the condition of the
13 house, asked questions about their marital status,
14 asked about when he was last out there.

15 MR. BUTNER: Objection as to the form, Judge.

16 MR. SEARS: We can go over every one of these
17 questions, Your Honor. I'd be happy to do that.

18 THE COURT: Sustained.

19 Q. BY MR. SEARS: You were present for this
20 interview with Mr. DeMocker conducted, as we've
21 seen, at the scene by you and Detective Brown;
22 right?

23 A. Yes.

24 Q. And you reviewed the transcript; right?

25 A. Yes.

1 Q. And you're familiar with the substance of
2 that interview; right?

3 A. Yes.

4 Q. Do you have a copy of the transcript?

5 A. Not with me. No.

6 Q. Okay. Mr. DeMocker, before he said I'm a
7 suspect, was asked about the last time he was in
8 contact, page 2, page 1781. Brown asked when was
9 the last time you were in contact with --
10 inaudible.

11 Mr. DeMocker says we talked and texted
12 today. When I came back from my work out, there was
13 some texts from her that came from earlier in the
14 evening answering a question about coming to get the
15 car.

16 He talks about being on a bike ride,
17 talking to Charlotte. He asks what was meant by the
18 condition of the house. He was asked about the text
19 messages and where he got them. And then we're on
20 to the discussion about turning his phone on and the
21 text came in. We've seen up there on page 3 of
22 Exhibit 958.

23 So that was the substance of the interview
24 up to that point.

25 A. Okay.

1 Q. And then the questions were what was your
2 telephone number? Is it Verizon or Sprint? Do you
3 still have those text messages on the phone? And he
4 says, sure, and volunteers to go get them. Okay?
5 So he's been asked questions about where he was and
6 what he was doing and what these text messages are;
7 right?

8 A. And we were also asking him questions
9 about condition of the house. We were trying to
10 gather general information.

11 Q. And all of a sudden you go from having
12 this discussion standing outside Bridle Path to
13 could you do us a big favor? Could we go down to
14 the station and sit down somewhere where we could
15 actually talk to you? You're a close person to her
16 and the closest info. The most information we can
17 get, the better we can gather what actually
18 transpired.

19 And his response was sure.

20 And then you say, and by -- you know -- us
21 getting access to your phone and seeing what the
22 last text message, that's when he says, so I'm a
23 suspect?

24 You went from let's sit and talk to let's
25 have your phone; right?

1 A. And the very next statement I told him was
2 no, no, no. At that point I didn't think of him as
3 a suspect. That's why I said no, no, no. I'm
4 trying to figure out a time line of when she was
5 last alive. And those text messages would be very
6 important to me of when they were sent.

7 Q. And where he was and what he was doing?

8 A. I need to know that too. I need to know
9 all of that.

10 Q. Right. You weren't going to tell him
11 yeah, you're a suspect. That's not a great
12 investigative technique. --

13 A. He brought that himself --

14 Q. -- if you want somebody to talk; right?
15 If he says am I a suspect, you say no?

16 A. Exactly.

17 Q. And he was?

18 A. At that point -- at some point he became a
19 suspect.

20 Q. Okay. Now, let's talk about, if we could,
21 the remainder of the contacts. So we saw on the
22 video, Sergeant, that, in fact, Mr. DeMocker had his
23 cell phone out and you were having a conversation
24 with him. And there was a question asked of
25 Mr. DeMocker about whether he had Jim Knapp's

1 contact information. Remember that?

2 A. Right.

3 Q. Okay. And at first he said no; right?

4 A. I believe so. Yes.

5 Q. Okay. Now, let's take a look at another
6 page in this transcript, this transcript being the
7 one at the sheriff's department.

8 This is Bates 1826, Counsel, interview 3,
9 page 25. It's already in evidence.

10 Okay. I have put in yellow here the
11 interchange between Steve DeMocker and Doug Brown
12 about Knapp and the phone. Detective Brown says
13 did -- does Charlotte or do you have any contact
14 number for Jim? Jim would be Jim Knapp; correct?

15 A. Yes.

16 Q. Okay. Mr. DeMocker says, no.
17 Detective Brown says, no, no. I -- inaudible -- I
18 didn't know if you got the message. Tried to call
19 him to see if he was at the house.

20 Mr. DeMocker says, no. I didn't really
21 think to do that. Detective Brown says, okay.

22 And Mr. DeMocker says, I think I have
23 his --

24 And then Detective Brown says, inaudible.
25 I know you said you really hadn't spoke with him.

1 And I wasn't sure where Charlotte is.

2 Now, if I told you -- when you watch this
3 on there, that very difficult video, when
4 Mr. DeMocker says, I think I have his, he's actually
5 looking at his phone. And Detective Brown is
6 looking away from him.

7 Were you in the room when that happened?

8 A. I probably was because I'm speaking right
9 after that.

10 Q. Right. You're there. Okay. Now, on the
11 videotape with the terrible audio Detective Brown
12 actually interrupts Mr. DeMocker. This comment here
13 by Detective Brown: Inaudible. I know you said you
14 hadn't really spoken with him and I wasn't sure
15 where Charlotte is, actually interrupt Mr. DeMocker
16 when he's looking at his phone and says, I think I
17 have his.

18 MR. BUTNER: Objection as to form.

19 MR. SEARS: We can play this video, Your
20 Honor. We'll be happy to do that. It's terribly
21 difficult. I'm simply asking foundational questions
22 to see if this witness will agree or not.

23 THE COURT: Overruled.

24 MR. SEARS: Thank you.

25 Q. To finish the question, do you remember

1 Detective Brown interrupting Mr. DeMocker as
2 Mr. DeMocker was looking at his phone saying, I
3 think I have his? Do you remember that?

4 A. No, I don't.

5 Q. Okay. Would you have to see and try to
6 listen to the audio to see if that refreshes your
7 recollection?

8 A. That would be the best way.

9 Q. I think we'll probably do that right after
10 lunch. Have you looked at this video since before
11 we played it in court?

12 A. Yes. Several months ago.

13 Q. And, of course, you looked at it when we
14 were here in court; right?

15 A. Yes.

16 Q. Do you remember in this period on the
17 video Mr. DeMocker having his phone in his hand?

18 A. Sorry. I don't remember.

19 Q. Do you remember Detective Brown sitting --
20 they were sitting at a little table; correct?

21 A. Right.

22 Q. On opposite sides of the table?

23 A. Right.

24 Q. Do you remember Detective Brown when he
25 said, I know you said you really hadn't spoken with

1 him, actually looking away from Mr. DeMocker?

2 A. I don't know.

3 Q. You would have to look at the video?

4 A. Yes, sir.

5 Q. Okay. We'll come back to that. You
6 remember --

7 I'm looking at Bates 1853, Counsel, which
8 is interview 6, page 3.

9 Do you remember talking to Mr. DeMocker
10 toward the end of the interview? Look at page Bates
11 1852 and 1853, toward the end of the interview.
12 Interview 6 is near the end of the interview.

13 A. Six or seven?

14 Q. Seven was the end. Let's look at
15 Bates 1852. You're talking about the search
16 warrant, writing the search warrant, your home, in
17 your car, looking for possible items. Mr. DeMocker
18 says that's fine. And you say, okay. And Brown
19 says, okay.

20 You understand why we're going through
21 this? And you -- before Mr. DeMocker can answer --
22 I'm not portraying you as the bad guy or anything.
23 It would be negligent of me not to do these things.
24 That's a sentiment you've expressed here in court;
25 right?

1 A. Yes.

2 Q. Mr. DeMocker says, I completely
3 understand. And then you say, I know it's an
4 inconvenience. And I know -- well, it's, basically,
5 a pain in the ass. That's what you said; right?

6 A. Yes.

7 Q. Mr. DeMocker says, but like I said, if I
8 didn't do my job, I could just -- Mr. DeMocker says
9 that I'm cold and tired and dehydrated is not your
10 problem.

11 We can fix that. If you need more water,
12 I'd be glad to get you water, food. Mr. DeMocker
13 says, yeah. Of course, I want to do that. I'm
14 happy to give you DNA. I wasn't there so I assume
15 that would be good for me.

16 And you say, that's true. Like you said,
17 once we do our lab work -- and I'm cold and I'm
18 tired, and I don't mean to -- I don't know what
19 looking suspicious looks like. I don't know -- I
20 didn't mean to ask too much to go. I'm just tired.

21 And Brown says, no. Like I said, it's the
22 whole thing with this. There are certain things and
23 what's going on with this. Like I said, we've got a
24 suspicious death. And right now we don't have
25 any --

1 And Steve says, and you're suspicious I'm
2 being --

3 And Brown says, finishes, other person.
4 We have no other person right now.

5 Mr. DeMocker says, I understand.

6 Brown says, no friends, no anyone like
7 that unless some random person just happened to walk
8 into the room and do this. We don't know what
9 else.

10 And like I said --

11 And you say, and that is possible, but.

12 This is an interview in which towards the
13 end you, basically, own up and say we don't have
14 anybody else. It's you, Jack; right?

15 A. Detective Brown did.

16 Q. And you're right there. And if you
17 said -- you could have taken Brown's side and said,
18 boy, are you wrong. Don't do that? Don't say that;
19 right? You could have done that; right?

20 A. Not in the interview room.

21 Q. What?

22 A. Not in the interview room.

23 Q. You could have taken him outside?

24 A. Sure.

25 Q. And you had conversations with Brown

1 outside the interview outside the presence of the
2 Mr. DeMocker; right?

3 A. Yes.

4 Q. Let me show you Bates 1861, interview 7,
5 at the very end, page 5. And starts with talking
6 about the food for Mr. DeMocker. He wants to talk
7 about getting a power bar. Steve says, that would
8 be nice.

9 Brown says, I'll get you something.

10 Steve says, I'm just dehydrated from the
11 ride.

12 Brown says, you're not getting my peanut
13 butter and jelly.

14 And then you go out of the room on the
15 video. You're not in the room, but the tape keeps
16 running. Brown's tape keeps running.

17 Male voice says, no, no, no.

18 Brown says, here's his phone.

19 And you say, he thinks he's smart. He
20 thinks he's smart. Brown says, huh?

21 And you say it again. He thinks he's
22 smart.

23 Okay. Now, let's talk about this. He's a
24 suspect now; right?

25 A. Yes.

1 Q. Okay. He thinks he's smart because you
2 think he's been lying to you; right?

3 A. Yes.

4 Q. And you think you're smarter than he is?

5 A. I've caught some inconsistencies with his
6 statements.

7 Q. Okay. And so this open investigation that
8 you talked about being open to all possibilities,
9 anything is possible, all possible things, is over
10 right then, isn't it?

11 A. Yes.

12 Q. It's Mr. DeMocker and only Mr. DeMocker
13 because he thinks he's smart?

14 A. Based on the statements he gave me. There
15 were inconsistencies there.

16 Q. And this trial is about those
17 inconsistencies apparently; right?

18 A. Yes.

19 Q. As far as Detective Sergeant Luis Huante
20 was concerned on July 3, 2008, Mr. DeMocker is it
21 and only it because he thinks he's smart?

22 A. Not just because of that.

23 Q. Is this the moment when no other suspect
24 makes any sense to you besides Mr. DeMocker?

25 A. At this point in time he is my main

1 suspect. That doesn't mean that that cannot change
2 later based on the evidence that we find.

3 Q. And so Mr. Knapp and Mr. 603, the people
4 that attacked Skyler Pearce, the Williamson Valley
5 gang, anybody else on the planet has taken a big
6 back seat to Steve DeMocker because he thinks he's
7 smart?

8 A. Those cases were solved.

9 Q. Those case were solved, but whether they
10 were involved in Carol Kennedy's murder or not was
11 never investigated?

12 A. We have no proof of that.

13 Q. And you stopped looking on July 3 when you
14 concluded that Mr. DeMocker was lying because he
15 thinks he's smarter than you are; right?

16 A. Based on his demeanor, yes.

17 MR. SEARS: Your Honor, I note it's a bit
18 early, but we need to cue up this video. I don't
19 know that we can do that and be done with this
20 witness before noon. I hate to break early, but I
21 think this might be something to consider.

22 THE COURT: We will address the lunch hour
23 accordingly. Thank you, Mr. Sears.

24 Mr. Huante, you may step down.

25 I'll just remind the jury, of course, to

1 abide by the admonition. And please be reassembled,
2 let's say, by five minutes after 1:00. And then
3 we'll start as soon as we can.

4 Thank you. We're in recess.

5 (Recess.)

6 (Following discussion regarding juror
7 questions not transcribed.)

8 (Proceedings continued in the presence of
9 jury.)

10 THE COURT: The record will show the presence
11 of the defendant, the attorneys, the jury.

12 And, Sergeant Huante, if you would please
13 resume the stand.

14 MR. SEARS: Your Honor, while we're waiting for
15 Sergeant Huante, I had a few housekeeping matters
16 with regard to some things we were showing the jury
17 today. So the record is clearer, if I can do that.

18 We had shown the jury Bates 1862 and 1826,
19 which are transcript pages. And I have marked
20 them -- I have marked Bates 1826 as Exhibit 2662 and
21 1862 as 2661 so that they're both in the record.

22 These come out of -- 2661 comes out of
23 Exhibit 310. 2662 comes out of Exhibit 959. But I
24 would think it would be clear in the record to have
25 these two new exhibits admitted separately. So I

1 would move them now.

2 MR. BUTNER: No objection to 2662.

3 THE COURT: 2662 is admitted.

4 (Exhibit 2662 admitted.)

5 THE COURT: And, Mr. Sears, that derives from
6 what other exhibit?

7 MR. SEARS: 2662 comes from Exhibit 169, Your
8 Honor.

9 THE COURT: Thank you.

10 MR. BUTNER: No objection to Exhibit 2661.

11 THE COURT: 2661 is admitted.

12 (Exhibit 2661 admitted.)

13 THE COURT: And, Mr. Sears, that comes from
14 what exhibit?

15 MR. SEARS: Exhibit 310, Your Honor.

16 THE COURT: Thank you. Both of those are
17 admitted.

18 MR. SEARS: The final piece is we had another
19 four pages that were a portion of Exhibit 958 that
20 the jury saw. These are more transcript pages. We
21 have now marked them as 2657, -58 -59 and -60. I've
22 provided them to Mr. Butner. And we would move
23 those four individual exhibits.

24 MR. BUTNER: No objections to those either,
25 Judge.

1 THE COURT: 2657 through -60 inclusive, part of
2 Exhibit 958, are admitted.

3 (Exhibits 2657 through 2660 admitted.)

4 MR. SEARS: Thank you, Your Honor.

5 Q. Sergeant, good afternoon.

6 If we can turn the house lights down for
7 just a minute.

8 Sergeant, if you can step up to the easel
9 with your pointer. Maybe that's worse with the
10 light off.

11 Sergeant, what I have on the easel is
12 Exhibit 2312 in evidence, which I'm sure you
13 recognize as a map of Williamson Valley Road that
14 shows Rainmaker, Glenshandra, Bridle Path and other
15 familiar scenes that we've talked about so much in
16 this case; right?

17 A. Right.

18 Q. As you can see from the legend on the
19 right, this is a north up map; right?

20 A. Yes.

21 Q. Now, it's very difficult to see from where
22 I'm standing so I'm sure it's difficult for everyone
23 to see. But drawn in this exhibit in color are
24 portions of the forest service trails that we've
25 talked so much about.

1 Do you see those?

2 A. Yes.

3 Q. And there is some numbers here. For
4 example, here is Trail 309 that comes from the
5 Peterson house and cuts across and connects up the
6 Trail 347; correct?

7 A. Right.

8 Q. And then 347 goes down off the bottom of
9 the map towards Granite Basin Lake; right?

10 A. Right. And 346.

11 Q. And 346. Now, what people have some
12 interest in is where does the other piece of 347
13 go? I remember that you told me that before you
14 ever got involved in this case you went out for a
15 bike ride on Trail 347. And you started at the
16 Williamson Valley trail head; right?

17 A. Correct.

18 Q. The Williamson Valley trail head
19 unfortunately is just off -- if we kept on going
20 here, it's just off the edge of this exhibit, isn't
21 it?

22 A. Somewhere up north. Yes.

23 Q. You can't see it. Maybe if you stepped up
24 and looked more closely. Up here at the top you can
25 see there is a house on the west side of Williamson

1 Valley Road; right?

2 A. Yes, sir.

3 Q. Okay. And you know from being out there
4 so many times that you have to go further north past
5 that house before you get to the Williamson Valley
6 trail head; right?

7 A. Right.

8 Q. Williamson Valley trail head, just to
9 recap, is a large parking area that has parking for
10 horse trailers and automobiles; right?

11 A. Right.

12 Q. And it has a pit toilet; right?

13 A. Yes.

14 Q. You know a lot about that pit toilet?

15 A. Yes, I do.

16 Q. And has a pretty good sign. There is a
17 sign that says "Williamson Valley Trail Head"?

18 A. Correct.

19 Q. Okay. And it is next to a little fire
20 house; right?

21 A. Yes. I believe it's a volunteer fire
22 house.

23 Q. Right. Just north of the trail head.
24 Now, at that trail head, when you come out of the
25 parking area there is a sign board that has some

1 maps and some trails. And even forest service signs
2 show where the various trails go. And one of the
3 trails that goes off that trail head goes away from
4 the scene of these events. It's Trail 308.
5 Trail 308 goes north and up on Granite Mountain;
6 correct?

7 A. I believe so. I'm not sure the number.

8 Q. It goes up north of there; right? There
9 is a trail that goes up to the north?

10 A. I believe so. Yes.

11 Q. Okay. Now, Trail 347 starts at the
12 Williamson Valley trail head and it comes along --
13 it's very difficult. I'm doing it here just,
14 basically, from memory. The trail starts out and it
15 goes right along behind -- right along in here is
16 private land. There is some houses and some horse
17 pastures right in this area here, aren't there?

18 A. I believe so.

19 Q. Okay. And you can see there is a fence
20 line right here. That fence line separates national
21 forest private land. Can you see that?

22 A. I believe there is a fence line there.
23 Yes.

24 Q. And you can see right along that -- right
25 along that area there, right along the side of the

1 fence line there on the forest service side is
2 Trail 347; right?

3 A. Somewhere along there.

4 Q. It comes down this area, comes along and
5 then turns and goes up this fence line to a gate
6 where the green line is; right? Can you see that
7 trail?

8 A. It's a little faint, but it's there.

9 Q. And you've been on that trail. It
10 follows -- the trail follows along the fence line.
11 Here is a Granite Park Estate subdivision right in
12 here. There are houses right along the trail. And
13 Trail 347 skirts that fence line on the national
14 forest service line right along here, doesn't it?

15 A. I believe so.

16 Q. When it hits this corner down here -- by
17 the way, Love Lane, then you'd come to a gate down
18 at the bottom there. Trail 347 turns, goes up a
19 short steep hill to a gate in this fence right here;
20 correct?

21 A. I'm not sure. I don't remember.

22 Q. If you get up close, can you see that?

23 A. I was not able to see that. No.

24 Q. Can't see it?

25 A. No.

1 Q. Okay. So you don't know?

2 A. I don't know.

3 Q. Do you see Trail 347 any other place in
4 here other than where I've been describing?

5 A. There are some trails here and some here.

6 Q. Okay. But they're not over there against
7 that fence line; right? You do see the trail by the
8 fence line, don't you?

9 A. I believe it runs somewhere around here,
10 just based on my experience.

11 Q. You remember the first mile or so, when
12 you leave the Williamson Valley trail head, and
13 you're pedaling your bike along get to here it's
14 pretty flat. Part of it is a Jeep road and then
15 there is some single track as you go along. This
16 area is very flat. Do you remember that?

17 A. Yes.

18 Q. And then there is a little steep pitch up
19 to the gate. You've been through that gate; right?

20 A. I believe so.

21 Q. When you come through the gate, the trail
22 actually splits off. 347 goes this way, and you can
23 take 345, a little spur that goes down here to Mint
24 Wash; right?

25 A. I believe so.

1 Q. Trail 345 goes right down and parallels
2 Mint Wash crossing over back and forth until it gets
3 down here. And there is another piece. And it
4 comes back up to 347, makes a loop, doesn't it?

5 A. I'm not sure on that.

6 Q. Okay. You never did that?

7 A. No.

8 Q. Okay. All right. Thank you. You can
9 resume the witness stand.

10 Were you responsible at all for suggesting
11 to the crime lab what they should look for on Steve
12 DeMocker's bike?

13 A. Might have been me or Captain Rhodes who
14 spoke with him.

15 Q. Do you know whether or not anybody ever
16 examined his bike to see if it had scratches on the
17 frame?

18 A. I know it was examined, but I don't know
19 if it was examined for scratches.

20 Q. It was not a brand new bike when you saw
21 it; right?

22 A. Right.

23 Q. In fact, you learned it was a number of
24 years old by looking at the model?

25 A. Yes.

1 Q. So if it was scratched all over, that
2 wouldn't be terribly surprising; right?

3 A. No. It's a mountain bike.

4 Q. Mountain bikes get scratched?

5 A. Yes.

6 Q. Apparently your bike must get scratched if
7 you and it go down every now and then?

8 A. Yes.

9 Q. So there wouldn't be any way to
10 particularly tell if the scratches on Mr. DeMocker's
11 bike were related to the ride on July 2nd?

12 A. That would be hard.

13 Q. Be very difficult; right?

14 A. Right.

15 Q. Do you remember seeing a report of some
16 examination of scratches?

17 A. No, I don't.

18 Q. Now, on the other hand, we saw that
19 Mr. DeMocker's bike had a frame pump; is that
20 right?

21 A. Yes.

22 Q. Can you tell us again what a frame pump
23 is.

24 A. It's a bicycle pump that is attached by
25 some means or clips to the bicycle itself on the

1 frame.

2 Q. Let me show you again.

3 (Pause in proceedings.)

4 MR. SEARS: The reason we're having difficulty,
5 Your Honor, is we're going to be using two
6 projectors at the same time. I've now managed to
7 interfere with that process. Square it up here.
8 Okay. Well, this is why we didn't use that
9 projector. Okay.

10 Q. This is really hard to see. That's a
11 little better. This is Mr. DeMocker's bike. We're
12 looking at Exhibit 2543; right?

13 A. Yes.

14 Q. And the frame pump that you saw was down
15 below the down tube here? Do you remember where it
16 was on the bike?

17 A. No, I don't.

18 Q. Okay. There are different kinds of
19 pumps. There are some pumps that go in the bike
20 bag, the under-the-seat bag; right? Little tiny
21 pumps?

22 A. True.

23 Q. And there are pumps that go on one of the
24 upper tubes. They typically have little pegs that
25 hold them or straps; right?

1 A. Sometimes.

2 Q. But you remember there was a frame pump?

3 A. Yes. I remember seeing --

4 Q. And you know that the frame pump must have
5 been the pump that Mr. DeMocker said he used to put
6 air in his tires trying to get it to hold air so he
7 could ride it back; right?

8 A. I believe so.

9 Q. He didn't have another pump; right?

10 A. I don't think so.

11 Q. Okay. Sometimes bikers carry co2
12 cartridges with them; right?

13 A. I do.

14 Q. Okay. Did you see any co2 cartridges in
15 Mr. DeMocker's under-seat bag, which is this bag
16 here?

17 A. I don't believe so. No.

18 Q. Okay. That frame pump was sent to the lab
19 and tested; right?

20 A. Yes.

21 Q. Okay. Because someone thought they saw a
22 drop of blood on it; right?

23 A. Yes.

24 Q. And the blood turn out to be whose?

25 A. I believe it was Mr. DeMocker's.

1 Q. Okay. Mr. DeMocker had that oozing cut on
2 his leg; right?

3 A. Right.

4 Q. Okay. And so there was a drop of
5 Mr. DeMocker's blood on the pump where his leg would
6 have been; right?

7 A. Right.

8 Q. That's the only blood?

9 A. Yes.

10 Q. This is Exhibit 2543.

11 Thank you, Your Honor.

12 Completely jumping around, that bag you
13 found on the golf course this spring had a pair of
14 shoes in there. Do you remember the brand name of
15 those shoes?

16 A. Maybe incorrect but it might be Adidas.
17 I'm not sure.

18 Q. I think I have a picture of them. Let me
19 ask the question another way. Those are not
20 La Sportiva shoes, are they?

21 A. I don't believe so. No.

22 Q. You're sure they're not; right?

23 A. Right.

24 Q. They're not La Sportiva shoes?

25 A. Right.

1 Q. They're some other brand, but you can't
2 recall the name right now; right?

3 A. Right.

4 Q. Okay. Did law enforcement ever take a
5 video of the open area behind Bridle Path? Ever
6 seen a video of that?

7 A. I don't believe so.

8 Q. We were going to go here, and I think we
9 got sidetracked. At Mr. DeMocker's house one of the
10 things that you took in the search the morning of
11 July 3rd was from his clothes washer; right? You
12 took things out of his clothes washer; correct?

13 A. The washing machine?

14 Q. Yes.

15 A. Yes.

16 Q. And let me show you what we've had marked
17 as 2388 for identification. Do you recognize what's
18 depicted in that photo?

19 A. Yes.

20 Q. Okay. This is a photo of a place that was
21 searched at Mr. DeMocker's Alpine Meadows residence
22 on July 3, 2008; correct?

23 A. I believe so. Yes.

24 Q. Okay. And this is how it looked when you
25 were there; correct?

1 A. I was not there when that photo was taken.

2 Q. You have reviewed all of the materials.

3 This is a photo taken during the execution of a
4 search warrant, the first search warrant, on July 3
5 at Alpine Meadows; right?

6 A. I believe so.

7 MR. SEARS: I would move 2388.

8 MR. BUTNER: No objection.

9 THE COURT: 2388 is admitted.

10 (Exhibit 2388 admitted.)

11 Q. BY MR. SEARS: Let me put 2388 up here on
12 this less than wonderful projector. This is a
13 photograph that's difficult to see. But it is the
14 inside of the washing machine at DeMocker's
15 condominium; right?

16 A. Right.

17 Q. In that are the clothes that were taken --
18 all the clothes there you see in picture were
19 seized; right?

20 A. Right.

21 Q. And they included the clothes that
22 Mr. DeMocker said that he was wearing. The
23 description of the clothing he was wearing matched
24 items taken from this washing machine; right?

25 A. I believe so.

1 Q. Okay. He said he came home, took off the
2 clothes he was wearing when he rode his bike and
3 threw them in the wash; right?

4 A. Right.

5 Q. Okay. Now, there is another picture of --
6 This comes off out of Exhibit 839, Your
7 Honor, as did Exhibit 2388.

8 Let me show you 2389. This is another
9 place that was searched on July 3 at Alpine
10 Meadows? Is it?

11 A. I believe so.

12 Q. Again, you weren't there, but you looked
13 at the search warrant photographs; right?

14 A. Yes.

15 Q. You've described for us that one of the
16 things that's done when a search warrant is being
17 executed is to photograph things in place before
18 they're collected; right?

19 A. Correct.

20 Q. And you've seen this photograph before?

21 A. I believe so.

22 MR. SEARS: I would move 2389.

23 MR. BUTNER: No objection.

24 THE COURT: 2389 is admitted.

25 (Exhibit 2389 admitted.)

1 Q. BY MR. SEARS: 2389 is a picture north up
2 of Mr. DeMocker's dryer next to the washing machine
3 at Alpine Meadows; right?

4 A. Right.

5 Q. The items in this picture were also taken
6 into evidence; right?

7 A. Right.

8 MR. SEARS: Your Honor, because of the poor
9 quality of the projector that was brought in here,
10 could we pause just for a moment and let the jury
11 take a look at 2388 and -89?

12 THE COURT: Yes.

13 Q. BY MR. SEARS: Let's talk for a moment
14 about the washer and dryer. We saw this morning
15 that they were in your search warrant -- right? --
16 that the contents of the washer and dryer were among
17 the things that the Judge permitted you to search
18 pursuant to the search warrant you got; right?

19 A. Right.

20 Q. And that's principally because
21 Mr. DeMocker told you that he had come home from his
22 bike ride and threw his clothes in the washing
23 machine and was in the process of washing them when
24 he left; right?

25 A. Correct.

1 Q. So you expected to find them there?

2 A. Right.

3 Q. And Mr. DeMocker also said that he had a
4 teenaged daughter, Charlotte, living with him and
5 that he was in the habit of doing laundry on a
6 regular basis; right?

7 A. I believe so. Yes.

8 Q. And that doesn't stretch the imagination,
9 does it, if you have a teenage girl in your house,
10 that that's going to increase the volume of your
11 laundry?

12 A. True.

13 Q. Okay. And what Mr. DeMocker said he put
14 in the washing machine you found in the washing
15 machine; correct?

16 A. Yes.

17 Q. And you also found in the washing machine
18 items that appeared to be Charlotte's; correct?

19 A. I believe so.

20 Q. Okay. Unless somebody else is there
21 wearing female undergarments?

22 A. Don't know.

23 Q. But there were some -- appeared to belong
24 to a teenage girl in that washer and dryer?

25 A. I believe so.

1 Q. Now, were the items wet when they were
2 seized? Do you know were? They still wet the next
3 morning?

4 A. I believe the items were when they were
5 seized -- the ones in the washing machine.

6 Q. Okay. And the washing machine drain hose
7 was taken; right?

8 A. Yes.

9 Q. And sent to the lab looking for biological
10 evidence; correct?

11 A. Correct.

12 Q. On the theory that even if the biological
13 evidence might be blood washed off the clothes, it
14 might still be trapped in the drain hose; right?

15 A. That's possible. Yes.

16 Q. And you know that no blood was found
17 belonging to Carol Kennedy on any of the clothes in
18 the washing machine or in the drain hose; right?

19 A. Correct.

20 Q. Did Mr. DeMocker know that he was being
21 recorded either when he was talking to Doug Brown on
22 the telephone when he said he would come out to the
23 scene on the night of July 2nd or when he was out at
24 the scene? Was it obvious to him that he was being
25 recorded?

1 A. No.

2 Q. You told us before that was because you
3 wanted him to be open; right?

4 A. Correct.

5 Q. We saw on the bike when the bike was here,
6 appeared to be some dirt in the photographs. Not
7 the ones we've looked at today. There might have
8 been some dirt on the tires of the bicycle?

9 A. I'm not positive on that. There might
10 have been. Yes.

11 Q. Did it cross your mind to consider having
12 someone examine the dirt on the bicycle tires to see
13 if it was consistent with the dirt or vegetable
14 matter from Bridle Path?

15 A. No, sir.

16 Q. Why not?

17 A. I didn't think about it.

18 Q. But the bike and both tires were actually
19 brought out at your direction from Alpine Meadows to
20 Chandler; right?

21 A. Right.

22 Q. The last area -- what I'm doing is asking
23 some questions that I think the jury might be
24 interested in. That's why I'm jumping around
25 subject to subject. Trying to see if we can cover

1 some of these things.

2 I want to talk a little bit going back to
3 the time -- as you were preparing the search warrant
4 but before it was issued, you said you had Deputy
5 Scott Joy go out and sit on the house at Alpine
6 Meadows until the warrant could be issued; right?

7 A. Correct.

8 Q. Was Deputy Joy sent to watch the Alpine
9 Meadows condo before or after you were interviewing
10 Mr. DeMocker on the video?

11 A. I believe it was shortly after the
12 interview ended.

13 Q. After the interview ended?

14 A. I believe so.

15 Q. Deputy Joy apparently said that he was
16 sent to the condo about 1:00 in the morning. But
17 the time stamp on the video was around 2:00. Is the
18 video stamp correct?

19 A. The video stamp should be correct. Then
20 I'm mistaken on the time.

21 Q. Is it possible Joy went there before the
22 video started?

23 A. Or during the interview. Somewhere in
24 that time. Yes.

25 Q. So if Deputy Joy was sent out to sit on

1 the Alpine Meadows condo before you conducted the
2 interview, you could assume, then, that it was in
3 your mind that you were likely going to be seeking a
4 search warrant before you even sat down to talk to
5 Mr. DeMocker; right?

6 A. I'm not sure -- what time did you say
7 Deputy Joy was out there?

8 Q. And I will tell you that I'm reading from
9 a jury question. And if you disagree with the
10 premise and the times, feel free to do so.

11 But let's assume for purposes of these
12 questions that Deputy Joy testified -- and he has
13 testified in this case -- that he was sent out to
14 Alpine Meadows about 1:00 a.m. And that the second
15 assumption would be that the time stamp on the video
16 is around 2:00 a.m.

17 First, do you agree or disagree with that
18 premise?

19 A. I'm not positive on the time that I sent
20 Joy out there. I know it was either during the
21 interview or somewhere in between the interview,
22 towards the end.

23 Q. Would you have sent Joy out as much as an
24 hour before you started talking to Mr. DeMocker?

25 A. That is possible. Yes.

1 Q. So the assumption, then, would be as early
2 as an hour before you started talking to
3 Mr. DeMocker, you had an idea that you were going to
4 want to search Mr. DeMocker's residence; right?

5 A. I don't think it would have been an hour.

6 Q. Five minutes before you started? Sometime
7 before the interview it was in your mind that you
8 were going to search Mr. DeMocker's residence?

9 A. That's possible. Yes.

10 Q. Now, one last question. Something we were
11 talking about before we broke for lunch, we were
12 talking about the question of whether or not
13 Mr. DeMocker actually was looking for Jim Knapp's
14 cell phone number when he was talking to Doug
15 Brown. You said that you really needed to look at
16 the video to know what he was doing. You just
17 couldn't remember?

18 A. Right.

19 Q. Well, we have the video. And we're going
20 to push the technological envelope here. But what
21 we're going to try to do is show the transcript and
22 play the video simultaneously here. So if you bear
23 with us, we're going to tee this up here. What
24 we're going to play for you is just the
25 portion of --

1 On the right-hand side, Sergeant, is
2 Exhibit 2662, which is a portion of the transcript
3 of interview No. 3 at page 25, Bates 1826. And then
4 on the left is a freeze frame of Mr. DeMocker in the
5 interview room.

6 And that is Detective Doug Brown on the
7 left of the screen; right?

8 A. Right.

9 Q. Okay. And you are somewhere else in this
10 room; correct?

11 A. Somewhere down in this area.

12 Q. Okay. Can I just tell you -- are those
13 rooms kept pretty cool?

14 A. That room doesn't have its own separate
15 temperature control. Whatever the entire building
16 is, that's what that is.

17 Q. You know that Mr. DeMocker that night
18 complained of being cold and eventually was given a
19 blanket; right?

20 A. True.

21 Q. Okay. So he was cold; right?

22 A. He mentioned it at one time.

23 Q. And it may well have been cold in that
24 room?

25 A. I don't know. I wasn't there.

1 Q. And he's wearing a T-shirt and shorts;
2 right?

3 A. Right.

4 Q. And he says he's been up all night and
5 he's dehydrated?

6 A. Right.

7 Q. It's not kept at some abnormally warm
8 temperature?

9 A. No.

10 Q. Okay. That's not part of the
11 interrogation process to make people physically
12 uncomfortable; right?

13 A. No.

14 Q. Okay. All right.

15 If we can, Your Honor, play just this
16 little clip of the video.

17 THE COURT: Yes.

18 MR. SEARS: And then it should -- this is only
19 going to take a few seconds.

20 (Video played.)

21 MR. SEARS: We're going to try to play that one
22 more time with the Court's permission. It is
23 obviously difficult to hear.

24 Q. This is a voice activated microphone?

25 A. Yes.

1 Q. So there is a lot of cutting in and
2 cutting out; right?

3 A. Right.

4 Q. Okay. This time, Detective, Sergeant, I
5 want you to pay attention, if you were not already,
6 to what Mr. DeMocker is doing in the video.

7 (Video played.)

8 Q. BY MR. SEARS: Sergeant, having now had a
9 chance to look at that very brief clip a couple of
10 times, you can see in there very clearly that
11 Mr. DeMocker is looking at his phone when he's
12 talking to Detective Brown; right?

13 A. He's looking at his phone, but soon after
14 that he closes it. And I believe Detective Brown
15 was looking at it.

16 Q. You're right. And I had that piece of it
17 wrong. He was looking at him. But you heard
18 Mr. DeMocker start to say, I think I have his, as
19 he's looking at his phone. You can see the
20 transcription. Your transcriptionist got it right?

21 A. Like I said, he's looking at his phone,
22 but I don't know if he's scrolling to it or he's
23 just about to close it.

24 Q. The question is you hear him on the audio
25 portion, as poor as it is, say as he's looking at

1 his phone, I think I have his. You can hear those
2 words, can't you?

3 A. He did say that. Yes.

4 Q. Okay. Then Detective Brown goes in with a
5 question that kind of directs him in another
6 direction talking about that he really hasn't spoken
7 with him and he wasn't sure about Charlotte, and
8 they go off into a different subject in the very
9 next question and answer?

10 A. I believe so. Yes.

11 Q. So Mr. DeMocker never -- he said up two
12 questions before that he didn't have it, and then
13 two questions later he's looking at his phone and he
14 starts to say, I think I have his; right?

15 A. I don't know what he was going say at the
16 end, though.

17 Q. Because he never had the a chance to
18 finish; right?

19 A. He had the opportunity.

20 Q. Right. And, in fact, he had Knapp's
21 number in his phone; right?

22 A. Sure.

23 Q. Okay. So was Mr. DeMocker lying to you
24 and Detective Brown about having Knapp's contact
25 information?

1 A. I don't know. He never truly finished his
2 answer.

3 Q. I think I have his. That's as much as he
4 says; right?

5 A. Sure.

6 Q. Okay. If he wasn't talking about Knapp's
7 phone, what was he talking about?

8 A. I don't know.

9 Q. If he was talking about Knapp's phone,
10 that statement would be consistent with what you
11 found in his phone -- I have his. And, in fact, he
12 did have his telephone?

13 A. I would have to assume that, sir. He
14 never finished his answer.

15 Q. Okay.

16 No questions, Your Honor.

17 THE COURT: Thank you.

18 Mr. Butner, redirect?

19 REDIRECT EXAMINATION

20 BY MR. BUTNER:

21 Q. Detective Huante, Mr. DeMocker told you
22 that he was riding on this trail out by Love Lane
23 and then he ended up riding on the trail going to
24 Granite Mountain; right?

25 A. Correct.

1 Q. Okay. And you ended up going out there
2 and checking with his girlfriend, Renee Girard, to
3 see where he was actually riding; is that right?

4 A. Correct.

5 Q. Okay. And where did she take you?

6 A. She took us to the road -- to the bottom
7 of Granite Lake Basin. It's called "Cayuse Day Use
8 Area," where people can park, go hiking, camping,
9 just have a picnic.

10 Q. Okay. When was this that she took you
11 there?

12 A. I believe it was a week before I did my
13 bike ride, which was on the 19th.

14 Q. And how was it that Renee Girard came to
15 be taking you out there?

16 A. I believe she called us and informed us
17 that she knew where Mr. DeMocker had been riding.

18 Q. Did she tell you why she was doing that?

19 A. No, she did not.

20 Q. When she took you out there, did she get
21 on the phone with Mr. DeMocker?

22 A. Yes, she did.

23 Q. To clarify where he had been riding?

24 A. Yes.

25 Q. And she further explained where he had

1 been riding?

2 A. I could hear her voice in the cell phone
3 speaking with her.

4 Q. Did she tell you she was talking with
5 Mr. DeMocker?

6 A. Yes.

7 Q. And this Cayuse trail head -- this is over
8 by Granite Basin Lake?

9 A. Yes.

10 Q. And this was supposedly the trail that
11 Mr. DeMocker was going to ride all the way out and
12 all the way back?

13 A. I believe so.

14 Q. And how far away is that particular end of
15 the trail from where Mr. DeMocker lived?

16 A. I believe it's approximately 7.9 miles.

17 Q. And how do you get there from
18 Mr. DeMocker's house?

19 A. You start at Alpine. And I believe you
20 drive down Iron Springs Road. And that will take
21 you to Granite Basin Lake Road.

22 Q. And is that end of the trail closer to
23 Mr. DeMocker's house than the end of the trail that
24 he rode supposedly beginning out on Love Lane?

25 A. Yes.

1 Q. How much closer is it?

2 A. I believe it was going from his home to
3 Rainmaker, up on top of Rainmaker would be 9.4 miles
4 or 9.3.

5 Q. So he could have gone over to the Granite
6 Mountain trail and ridden the exact same trail and
7 had a shorter drive from his house to do it?

8 A. Yes.

9 Q. Did Mr. DeMocker ever explain to you why
10 he went out to the Love Lane trail to ride there?

11 A. I really never got an explanation.

12 Q. And Mr. DeMocker -- at some point in time,
13 did he tell you how long he had originally planned
14 his trail ride to be?

15 A. I believe he said that it was supposed to
16 be a two-hour bicycle ride.

17 Q. In fact, did he say a two-hour run or bike
18 ride?

19 A. I believe so. Yes.

20 Q. And did he tell you how long it turned out
21 to be?

22 A. I believe he said it was over four hours.

23 Q. Did he ever tell you exactly when he did
24 leave his residence at Alpine Meadows?

25 A. No, he didn't. He did tell us that he

1 arrived somewhere around 6:30 up on Rainmaker.

2 Q. And did you ever find some records to
3 indicate what time he actually did get home that
4 evening, at least enter the Alpine Meadows
5 condominium project?

6 A. Yes.

7 Q. What time did he actually get home?

8 A. I believe it was around 10:08.

9 Q. How did you find out that time?

10 A. Not only by -- we figured that time out by
11 the gate code that was used and also by the time
12 that he placed his battery in his cell phone. It's
13 pretty consistent to the same time.

14 Q. In terms of scratches on Mr. DeMocker,
15 there was discussion about the fact he had scratches
16 on him; right?

17 A. Yes.

18 Q. And did you see scratches on Mr. DeMocker?

19 A. Yes, I did.

20 Q. Where were the scratches located?

21 A. There was a large one on his left leg,
22 lower leg, on his right -- on his left arm. He had
23 one in his right arm and one on his lower left leg.
24 And I believe he had some up here by his upper left
25 thigh.

1 Q. So he had scratches on his left side and
2 on his right side?

3 A. Yes.

4 Q. Did he have scratches -- just to clarify
5 that, where was the worst scratch he had?

6 A. On his left leg.

7 Q. And did he have any scratches on his right
8 leg?

9 A. Yes, he did. I noticed one.

10 Q. Let me show you what's been marked as
11 Exhibit 2595.

12 May I approach, Judge?

13 THE COURT: Yes.

14 Q. BY MR. BUTNER: Do you recognize what's
15 depicted in that particular photograph?

16 A. Mr. DeMocker's right hand and a scratch.

17 Q. Okay. Is that as it appeared on the late
18 evening and early morning hours of July 2nd,
19 July 3rd of 2008?

20 A. Yes.

21 MR. BUTNER: I'd move for the admission of
22 Exhibit No. 2595.

23 MR. SEARS: Voir dire, Your Honor?

24 THE COURT: All right.

25 MR. SEARS: May I see that exhibit, please,

1 Counsel?

2 May I approach the witness, Your Honor?

3 THE COURT: Yes.

4 VOIR DIRE EXAMINATION

5 BY MR. SEARS:

6 Q. Sergeant Huante, looking here at 2595 for
7 identification, can you point to me the scratches
8 that we're talking about in this photo.

9 A. That.

10 Q. Okay. Are you trained medically to age
11 photographs of lacerations and scratches on the
12 human body?

13 A. No, sir.

14 Q. Do you have any expertise in determining
15 how old that scratch is in comparison to the oozing
16 scratches that you on saw on Mr. DeMocker's leg?

17 A. No, sir.

18 Q. Do you have any reason to believe that
19 that scratch has anything to do with the events of
20 the night of July 2nd, 2008?

21 A. He had similar scratches on his other arm.

22 Q. This is a scratch near his wrist?

23 A. Right.

24 MR. SEARS: Your Honor, I don't have any
25 objection to 2595.

1 THE COURT: 2595 is admitted.

2 (Exhibit 2595 admitted.)

3 REDIRECT EXAMINATION (Continued)

4 BY MR. BUTNER:

5 Q. Let me show you what's been marked as
6 Exhibit No. 2599.

7 MR. SEARS: No objection.

8 THE COURT: 2599 is admitted.

9 (Exhibit 2599 admitted.)

10 MR. BUTNER: Let me show you what's been marked
11 as Exhibit 2601 and 2603.

12 MR. SEARS: I have a question of voir dire on
13 2603, Your Honor.

14 THE COURT: Yes.

15 MR. SEARS: Show that to the witness, please.

16 VOIR DIRE EXAMINATION

17 BY MR. SEARS:

18 Q. Sergeant, can you tell me what part of
19 Mr. DeMocker's body is depicted in that photograph.

20 A. I believe it's his right side.

21 Q. There is some underwear in that picture;
22 correct?

23 A. Yes.

24 Q. And there is an injury in there and that's
25 above the waistband of the underwear; is that right?

1 A. Correct.

2 Q. So it's up on his upper right side?

3 A. I believe so. Yes.

4 Q. And do you have any basis for giving us an
5 opinion as to how old that injury is? I just want
6 to know if you have any basis or training or
7 expertise in aging this as an injury.

8 A. No, sir. We just took photographs of all
9 the possible injuries that Mr. DeMocker had.

10 Q. I have a question about 2010. You have
11 2010 in front of you there?

12 A. Yes, I do.

13 Q. Is there an injury depicted in that
14 photograph?

15 A. I believe there is one up here by the
16 thigh.

17 Q. That's a picture looking at Mr. DeMocker's
18 thigh?

19 A. Yes.

20 Q. What kind of injury?

21 A. I believe it might be some sort of a
22 bruise.

23 Q. A bruise?

24 A. Yes.

25 Q. Thank you.

1 Your Honor, I don't have any objection to
2 either of those exhibits.

3 THE COURT: I want to make sure I have the
4 numbers correct.

5 MR. BUTNER: 2603 was one. That would be this
6 picture right here.

7 That's admitted.

8 (Exhibit 2603 admitted.)

9 MR. BUTNER: And then 2601 is the other picture
10 of the defendant's right thigh.

11 THE COURT: That's admitted.

12 (Exhibit 2601 admitted.)

13 MR. BUTNER: And then, as I understand the
14 Court's earlier ruling, 2599 is also admitted?

15 THE COURT: Yes. That's right.

16 MR. BUTNER: Okay. I'd like to publish these
17 at this time.

18 THE COURT: You may.

19 MR. BUTNER: Thank you.

20 REDIRECT EXAMINATION (Continued)

21 BY MR. BUTNER:

22 Q. So in addition to the injuries that you
23 noticed on his left side, did you also find other
24 injuries on his right side?

25 A. Yes.

1 Q. And they consisted of a scratch on his
2 lower right leg?

3 A. Yes.

4 Q. And then a small bruise on his right thigh
5 about maybe six inches or so above his knee?

6 A. Yes.

7 Q. And then also a small scratch on the
8 inside of his right arm?

9 A. Yes.

10 Q. And then also a bruise on his right side
11 in the area of his kidney toward the back?

12 A. Yes.

13 Q. I guess I'll go with that one first. Is
14 this the injury that you were just describing to
15 Mr. DeMocker's right side in the area of his kidney?

16 A. Yes.

17 Q. You couldn't tell how old that bruise was,
18 could you?

19 A. No, sir.

20 Q. But you photographed it nevertheless or
21 had it photographed rather; is that right?

22 A. Correct.

23 Q. And then let me show you the picture of
24 his right thigh. Do you see the small bruise now on
25 his right thigh? Is that what you were talking

1 about?

2 A. Yes.

3 Q. And then I'll put the picture up of his
4 right arm. Where is the scratch located that you
5 were talking about?

6 A. Right there.

7 Q. Okay. And then did you find a scratch
8 also on his right leg?

9 A. Yes, sir.

10 Q. Is that a picture of the scratch?

11 A. Yes. It runs here to there.

12 Q. Was that scratch oozing or bleeding at the
13 time that you saw it?

14 A. No, sir.

15 Q. In your earlier testimony you made mention
16 of a paper that was found during the line search out
17 behind the Bridle Path residence. Do you recall
18 that?

19 A. Yes, I do.

20 Q. And did you find out the origin of that
21 paper?

22 A. It was a bill for, I believe, auto repair
23 that belonged to a neighbor that had probably just
24 blown away and was caught up in the brush.

25 Q. In fact, was that neighbor contacted and

1 he explained about his bill?

2 A. Yes.

3 Q. Was it Mr. Zyché?

4 A. I believe so. Yes.

5 Q. Was he the fellow that worked in the crime
6 lab over in L.A.?

7 A. I'm not sure on that.

8 Q. Okay. All right. And Exhibit 2568.

9 (Pause in proceedings.)

10 Q. BY MR. BUTNER: When you were talking with
11 Mr. DeMocker in the interviews, did you discuss with
12 Mr. DeMocker his familiarity with the habits of his
13 ex-wife?

14 A. Yes.

15 Q. What did he tell you in that regard about
16 what she would do after work?

17 MR. SEARS: Leading.

18 THE COURT: Overruled.

19 THE WITNESS: He stated that Miss Kennedy would
20 come home from work and then that she would go out
21 for a run. That was a fairly normal habit of
22 Ms. Kennedy.

23 Q. BY MR. BUTNER: Did he also indicate to
24 you that he was familiar with her dating habits?

25 A. Yes. I believe he stated that she was

1 dating people on the internet, through internet
2 sites.

3 Q. Okay. Did he indicate that she was dating
4 very much or staying home a lot or what?

5 A. I believe he stated that -- you know --
6 she had met some people through the internet but
7 that she was also some sort of a home body.

8 Q. Is that what he told you? She was a home
9 body?

10 A. I believe so.

11 Q. Let me show you Exhibit No. 2568, which, I
12 believe, has already been admitted into evidence.
13 Do you recognize this particular photograph?

14 A. Yes.

15 Q. What is it?

16 A. This is one of the tennis shoes that was
17 in the getaway bag.

18 Q. And can you tell what brand it is from
19 looking at this tennis shoe?

20 A. I can't read it.

21 Q. Pardon?

22 A. I'm having trouble reading it. It does
23 have the brand name.

24 Q. It's an unreadable type of brand name?

25 A. It's kind of covered -- the beginning of

1 the letters are covered.

2 Q. But it's not a La Sportiva; right?

3 A. No.

4 Q. Some other type?

5 A. Right.

6 Q. Okay. There was some discussion with
7 Mr. Sears about Mr. DeMocker and the checkbook and
8 checks. Do you recall that?

9 A. Yes.

10 Q. Did Mr. DeMocker make any statements to
11 you concerning Carol Kennedy and anything about
12 checks?

13 A. They were supposed to exchange checks that
14 afternoon. They owed each other a pile of money, I
15 believe he stated, and that she was being reluctant
16 in paying some of the debt or bills that she was
17 supposed to.

18 Q. What was Carol Kennedy being reluctant
19 about according to Mr. DeMocker?

20 A. She was supposed to pay -- I believe it
21 was a credit card. And she was not willing to do
22 that.

23 Q. And what about the division of the 401K?
24 What did Mr. DeMocker say about what Carol Kennedy
25 was going to do in regard to the division of his

1 401K?

2 A. I believe he stated that she was going to
3 keep it.

4 Q. And yet he had made an appointment with
5 her to go over there and exchange checks over there
6 that evening?

7 MR. SEARS: Leading.

8 THE COURT: Sustained.

9 Q. BY MR. BUTNER: Had Mr. DeMocker made an
10 appointment with Carol Kennedy that evening?

11 A. He had sent her text messages, emails and
12 even called.

13 Q. What was the purpose of those text
14 messages?

15 MR. SEARS: Foundation.

16 THE COURT: Sustained.

17 Q. BY MR. BUTNER: When you were interviewing
18 Mr. DeMocker, you were going through his telephone
19 with him; right?

20 A. Yes.

21 Q. And, in fact, we went through a summary of
22 his text messages; is that correct?

23 A. Yes.

24 Q. And Mr. DeMocker also indicated that he
25 had emailed Carol Kennedy; isn't that right?

1 A. Yes.

2 Q. And what was the subject matter of those
3 text messages and emails that you went through with
4 him in the early morning hours of July 3rd?

5 A. They were discussing the exchange of the
6 money or the checks, when they could meet and if
7 there was another email address that he could send
8 this information to.

9 Q. And is that when Mr. DeMocker indicated
10 that Carol Kennedy had made a statement to him about
11 what she was not going to do with the 401K?

12 A. Yes. I believe that he stated that she
13 was reluctant in paying those, that debt.

14 Q. What was the condition of Mr. DeMocker's
15 bicycle tire when you seized the bike pursuant to
16 the search warrant? And when I say "the condition,"
17 would you describe it's total conditions for us,
18 please.

19 A. It was an older bicycle. And the front
20 tire was off. The rear tire was still on. The rear
21 tire was flat. The rear tire appeared to me to be
22 old, even somewhat dry rotted. The rubber on the
23 tire itself was somewhat dry rotted. You could see
24 on the side wall it was kind of almost peeling away
25 in some places or falling apart.

1 Q. You're a mountain bike rider. Would you
2 have gone out riding on a bike tire like that?

3 MR. SEARS: Relevance, foundation.

4 THE COURT: Overruled.

5 THE WITNESS: No.

6 Q. BY MR. BUTNER: Why not?

7 A. I knew it was going to get a flat or I was
8 going to get stranded.

9 Q. And was that because of the dry rot
10 condition?

11 A. Yes.

12 Q. I asked you to pick up an exhibit at
13 lunchtime; correct?

14 A. Yes, sir.

15 Q. And what was that exhibit that I asked you
16 to pick up at sheriff's office evidence?

17 A. It was a map from the forest service of
18 the area of Granite Basin.

19 Q. Let me show you what's been marked as
20 Exhibit No. 237 for identification purposes. You
21 brought the original map with you?

22 A. Yes, I did.

23 Q. Let me show you what's been marked as
24 Exhibit 237 for identification purposes. And there
25 is a top sheet to that also?

1 A. Yes.

2 Q. What is the top sheet?

3 A. The top sheets are notes that
4 Detective Doug Brown wrote when he went hiking.

5 Q. And you also have those with you too; is
6 that right?

7 A. Correct.

8 MR. BUTNER: Let's -- I would like to
9 substitute the real map, Judge, for this particular
10 exhibit.

11 THE COURT: I'm going to ask Mr. Sears.

12 MR. SEARS: The number again, Your Honor?

13 MR. BUTNER: 237.

14 MR. SEARS: We have a different 237 in
15 disclosure. Do you have a Bates range, Counsel?

16 MR. BUTNER: Bates 4530 through --

17 THE COURT: Counsel, while you're looking at
18 the exhibit, might this be a good time for the
19 afternoon recess?

20 MR. BUTNER: It would be a good time, Judge.

21 THE COURT: Ladies and gentlemen, we'll go
22 ahead and take the recess at this time. Be about 15
23 minutes. Please be ready to come back into court at
24 about five after.

25 And remember the admonition, of course.

1 Thank you.

2 (Recess.)

3 (Whereupon, after the recess, the proceedings
4 continued with a different court reporter on duty.)
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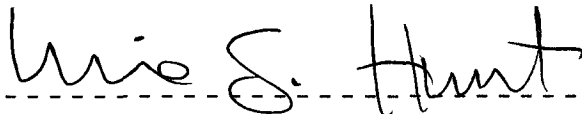
1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE

3 I, Mina G. Hunt, do hereby certify that I
4 am a Certified Reporter within the State of Arizona
5 and Certified Shorthand Reporter in California.

6 I further certify that these proceedings
7 were taken in shorthand by me at the time and place
8 herein set forth, and were thereafter reduced to
9 typewritten form, and that the foregoing constitutes
10 a true and correct transcript.

11 I further certify that I am not related
12 to, employed by, nor of counsel for any of the
13 parties or attorneys herein, nor otherwise
14 interested in the result of the within action.

15 In witness whereof, I have affixed my
16 signature this 11 day of January, 2011.

17 
18 -----
19 MINA G. HUNT, AZ CR No. 50619
20 CA CSR No. 8335